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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1233rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 15 August 1997, at 10 a.m.

Chairman: Mr. BANTON

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Twelfth and thirteenth periodic reports of Norway (CERD/C/281/Add.2; HRI/CORE/1/Add.6) (continued)

1. At the invitation of the Chairman, the members of the Norwegian delegation resumed their seats at the Committee table.

2. Mr. WILLE (Norway) thanked the Committee for the fairness of its comments about Norway's report; all comments would be passed on to the relevant Government departments.

3. Information relating to the situation of ethnic minorities in Norway was difficult to gather because of the legislation on the privacy of data relating to individuals; a case in point was Sami education. Some municipal statistics were available, showing for instance, that the level of education in the northernmost provinces, where most indigenous people lived, was lower than in the rest of the country. However, in Karasjok and Kautokeino, the two municipalities with the highest Sami population, the latest figures showed that educational standards were actually higher than the average, particularly for Sami women.

4. Members had applauded the fact that Norway had consulted non-governmental organizations (NGOs) in the preparation of its report to the Committee and other United Nations bodies. However, the Government was well aware that the preparation of the report was its responsibility, and not that of any other body.

5. The results of the annual surveys of attitudes towards immigrants and immigration policy described in paragraph 45 of the report (CERD/C/281/Add.2) showed that the process of building tolerance was a slow one, but the latest survey in 1996 revealed a steady improvement in attitudes, with up to 70 per cent of respondents believing that Norway should accept refugees to at least the same extent as before.

6. Referring to the forthcoming general election, members had noted the strong position of the Progressive Party, which currently stood at 23 per cent in the opinion polls. It was also true that the Progressive Party had declared its intention of abolishing the Sami Assembly and reducing Sami language rights. As a civil servant, he felt that he should not comment further on party political matters.

7. On the subject of the status of the Convention in national law, a new provision of the Constitution, article 110 (c), added in 1994, stated that the authorities of the State must respect and ensure human rights and that further provisions would be laid down by statute. Measures were now under way to pass an act which would incorporate certain international human rights Conventions into Norwegian law. The three conventions under consideration so far were the United Nations International Covenant on Civil and Political Rights, the

International Covenant on Economic, Social and Cultural Rights, with their optional protocols, and the European Convention on Human Rights. However, the International Convention on the Elimination of All Forms of Racial Discrimination was still upheld in the Norwegian courts under the "principle of presumption", whereby national law should be interpreted in such a way as to ensure that there was no conflict with international treaties to which Norway was a party.

8. Members had asked many questions about the Sami population of Norway. The world population of Samis numbered between 70,000 and 100,000, of whom 70 per cent lived in Norway. Ten per cent of the Samis in Norway made their living from reindeer husbandry in the far north of the country, and the rest were scattered around the country and had all kinds of jobs.

9. The status of the Sami people was laid down in article 110 (a) of the Norwegian Constitution, under which the State was obliged to create conditions enabling them to preserve and develop their language, culture and way of life. Norway had also ratified the ILO Convention concerning Indigenous and Tribal Peoples (No. 169, 1989). The Sami Assembly was free to decide which matters it would deal with, and which public bodies it should address. Other public bodies were obliged to consult the Assembly in matters affecting the Sami people. The Assembly dealt with the allocation of funds for cultural, craft and children's activities for the Sami people. The Assembly was active in international bodies such as the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and participated in the work on the draft declaration on the rights of indigenous peoples.

10. Regarding Sami language rights, since 1992 the Sami and Norwegian languages had enjoyed equal status in six municipalities in the north of the country. People had the right to use the Sami language in their written and oral dealings with the public administration, the courts, the health system, etc. If three pupils in any school requested teaching in the Sami language, they had the right to receive it.

11. The Sami Assembly had 39 members. In order to vote for the Assembly, people must consider themselves to be Samis, and they or their parents or grandparents must use the Sami language at home. Those conditions were the nearest Norway came to a definition of the term "Sami minority". In reply to Mr. Wolfrum's question whether that "definition" contradicted that used for the Finno-ethnic (Kven) group, he observed that the two definitions were used in a different context, since the designation "Finno-ethnic" was more subjective and more a matter of personal choice. In the past, not many of the Finno-ethnic population had actually spoken Finnish, but there was currently a revival of interest in the language.

12. Members had asked about a complaint by the Skolte Sami population to the European Commission of Human Rights, claiming the exclusive right to practise reindeer husbandry as an essential part of their culture and way of life. In fact, legislation had now been passed which gave the Sami people the exclusive right to practise reindeer husbandry in their traditional lands.

13. The Government carried out affirmative action in favour of the Sami population, although it did not always approve affirmative action for other groups.

14. Norway had analysed its implementation of article 4 (b) of the Convention both before ratifying the Convention and since, most recently in a parliamentary debate in 1991. Actual acts of racial discrimination were punishable under the Penal Code. At the same time Norway was anxious to protect the rights to freedom of expression and freedom of association. The Government therefore considered that it had fulfilled its obligations under article 4 (b) of the Convention without expressly prohibiting racist organizations.

15. The Country Rapporteur, Mr. Rechetov, had quoted information, apparently from the Office of the United Nations High Commissioner for Refugees (UNHCR) about two minors who had sought asylum but had been deported from Norway without their families being informed. He had not been able to find any details of those specific cases, but in general such action would not be permissible. Any further information which emerged would be included in the next periodic report.

16. Ms. BAKKEN (Norway) said she had no figures on the decrease in racial violence following the adoption of the Brumunddal Plan of Action, designed to reduce racial violence and harassment, but reports from a Vietnamese group indicated that violence and damage had been reduced since the introduction of the Plan of Action, although racist insults had not decreased. Research had shown that verbal abuse, while not physically damaging, still caused considerable distress, and the Government was therefore taking it very seriously. The main group which had suffered harassment before the inception of the Plan had been the Iranians. Many of them had chosen to move before the Plan had been introduced, so there was no way of knowing whether they would have benefited from it. Research indicated that the area was no longer such a target for racist or xenophobic groups.

17. Members had asked about the work of the advisory team to combat racial violence and harassment referred to in paragraph 41 of the report. Extreme right-wing groups had been seen as the main threat, because many racist incidents took place at demonstrations involving groups who displayed extreme right-wing emblems. The costs of the advisory team were paid by local government, but in certain circumstances the central Government's Directorate of Immigration paid for an initial consultation. The advisory team was made up of researchers and specialized social workers.

18. Mr. Rechetov had asked about the languages used for local election information in the September 1995 elections. Information had been produced in Norwegian and 14 other languages, including Urdu, Punjabi, Hindi, Tamil and Polish. Only 40 per cent of immigrants had participated in the election. The number of people from an immigrant background elected to local government was low, although the proportion in Oslo, where many immigrants lived, was higher at 7.2 per cent, which was a reasonable reflection of the proportion of immigrants in the population. A list of immigrant candidates had been prepared, but no one had been selected from it.

19. Unemployment among immigrants had fallen slightly, from 12 per cent in February 1996 to 10.6 per cent in February 1997. Unemployment had declined among all immigrant groups except people from Eastern Europe, which was probably explained by the large number of refugees from Bosnia and Herzegovina who had only recently arrived. The figure of 25 per cent quoted by members might have been true a year before for certain national groups. For some other nationalities, the unemployment rate was close to the national average of 4 per cent. The Government was concerned about the level of unemployment among the immigrant community. Immigrants were entitled to undertake vocational training, even if they came from an academic background, although people with higher qualifications often went to universities or other high-level institutions for further training. The system for the recognition of foreign qualifications was being reviewed. Mr. Rechetov had asked whether people with special skills were able to obtain work permits. Naturally, if the skills in question were ones which Norway needed, such as those required for the oil industry or the health service, then a work permit would be granted.

20. Mr. Rechetov had asked whether multicultural teaching had been organized in a way which avoided possible disputes with immigrant groups. Education in Norway was indeed multicultural and, as far as she was aware, no conflicts had arisen.

21. The municipalities were at liberty to provide mother-tongue education for children whose first language was not Norwegian: however, it was not compulsory as implied by paragraph 170 of the report. Mother-tongue teaching usually took place in the first four grades of primary school, and was used as a tool to help the child to learn Norwegian. The subject of mother-tongue education was currently being debated in Norway, and more details would be included in the next periodic report.

22. In respect of article 3 of the Convention, Mr. Sherifis had asked whether immigrants were segregated in Norway. There was no policy of segregation, although 58 per cent of immigrants lived in the 10 biggest municipalities. Refugees were settled all over the country as a matter of policy. Immigrants tended to be concentrated in certain areas of the capital, Oslo, and in one particular area, Oslo Inner East, a special programme of action had been introduced to improve housing, traffic conditions, etc. over the next 10 years.

23. Ms. KOLSHUS (Norway) noted that members had questioned the terms "established"/"settled" minority group. Since there was no official definition of a minority in Norway, the terms were used to distinguish ethnic groups which had lived in Norway for a long time from more recent arrivals. Norway was in the process of ratifying the Council of Europe framework Convention for the protection of national minorities, for which a precise definition of "national minority" would be needed.

24. Mr. Rechetov had asked about the demographic information provided in the report. The figures showed approximately 120,000 immigrants from Europe, of whom approximately 40,000 came from other Nordic countries and enjoyed special rights.

25. She had been unable to find the details of the specific cases of two students who had been deported from Norway, but in general foreign students were allowed into Norway under certain conditions and would be deported if those conditions were not respected. Any further information would be included in the next periodic report.

26. The final results of the survey of prosecution practices related to section 135 (a) and section 349 (a) of the Penal Code were not yet available, but preliminary results listed 40 allegations of violations of article 135 (a) and 8 allegations connected with section 349 (a), which was the less serious of the two. Seventeen of the 40 cases had been dropped before coming to court. More information would be included in the next periodic report.

27. A number of members had referred to a case in which the leader of a small political party had expressed views which had offended the immigrant population. He had been convicted under section 135 (a) of the Penal Code, but had appealed against that decision to the Supreme Court. Any further information would be included in the next periodic report.

28. Mr. Rechetov had asked about the decrease in the number of complaints of racially motivated crimes. There was no real information to explain the decrease. The police took its responsibilities very seriously, and plans had been introduced to improve relations with minority groups in matters such as racial discrimination and immigration. Special police patrols had been instituted in some cities where people of immigrant backgrounds had been denied entry to nightclubs or restaurants. The police worked together with a number of NGOs in that area. At the national level, a plan governing the policy of the police in immigration control was due to be completed in October 1997.

29. She had no official information about the number of people with an immigrant background working in the public sector. However, a survey by the Anti-Racist Centre found that the proportion of immigrants working for the central government was only about 2 per cent, but that the figure for Oslo was about 10 per cent. In 1997, nine applicants with an immigrant background had sought admission to the police force.

30. The customs service had contacted an NGO for advice on the recruitment of people from ethnic minorities although, owing to financial constraints, no customs officers had been recruited in the previous 18 months. A member had asked whether certain admission requirements, such as language ability, would be waived in the case of applicants from an ethnic minority. The customs service was not willing to waive the language requirement, but it intended to emphasize in its recruitment advertising that applicants need not be Norwegian citizens.

31. Members had welcomed the directive issued by the Ministry of Justice encouraging municipalities to select jury members from ethnic minorities. She thanked Mr. van Boven for his comment on one particular case, which she would pass on to the relevant department.

32. Mr. Wolfrum had referred to the case of a Muslim private school. It was true that such a school had been denied permission to open, on the grounds that integration of Muslim children would be better achieved by sending them to ordinary Norwegian schools.

33. Mr. van Boven had asked whether the victim of an offence under the Penal Code could also claim civil damages. That was possible under Norwegian law, but she had no specific information about cases related to racial discrimination. Any available information would be included in the next periodic report.

34. Mr. de Gouttes had asked about the possible establishment of a national institute against racism. For a five-year test period, free professional legal advice was being provided for victims of racial discrimination, which was partly intended to gain more information to help with future planning.

35. Mr. Valencia Rodriguez had noted that racial motivation could be counted as an aggravating circumstance in cases of serious vandalism, and had asked what happened in less serious cases. She could assure him that racial motivation was also taken into account in less serious cases.

36. Mr. Valencia Rodriguez had also asked about the detention of immigrants. Under section 37 (5) of the Immigration Act, foreign nationals could be detained for up to 12 weeks if their identity was in question. In 1995-1996, 75 such foreign nationals had been kept in detention, of whom 59 had been asylum-seekers. Fifty people had been kept in detention in 1995, 23 of them for over 12 weeks, and 25 people in 1996, 4 of them for over 12 weeks.

37. Mr. WILLE (Norway) confirmed that Radio Nite Rocket was without a licence for the time being and that its renewal was under consideration by the Government.

38. The proposed amendment to the Working Environment Act, referred to in paragraph 150 of the report, had been submitted to Parliament but there had been no time for action to be taken before the elections. It would therefore be up to the new Government to submit the proposal at a later date.

39. The spokesman system in the armed forces, whereby soldiers elected a spokesman to take up complaints with the more senior levels and in certain welfare matters, was now being used to combat racial discrimination.

40. Although a separate legal prohibition against racial discrimination in connection with the renting or purchasing of a dwelling was under consideration, as stated in paragraph 164 of the report, there were no plans to submit a bill to Parliament for the time being. The problem particularly concerned the private rental sector. Cases of racial discrimination could be taken to court under a general prohibition against discrimination in the Penal Code. However, it was up to the individual concerned to prove that discrimination had taken place and the time and cost involved often proved to be a deterrent. The problem was also aggravated by language difficulties and a lack of knowledge of the housing market. The Government was establishing a five-year provisional arrangement to monitor the situation and try to improve the possibilities of legal assistance in discrimination cases.

41. The Norwegian reports and the Committee's conclusions were public documents in Norway. The concluding observations had so far been sent to all relevant government authorities and had sometimes been discussed in follow-up meetings. They were also submitted to other bodies including interested NGOs. The concluding observations resulting from the present session would be published in a newsletter produced by the Ministry of Local Government and Labour and sent out to the municipalities, the Directorate of Immigration and other bodies every two months.

42. With regard to the participation of the Sami people in Parliament, one Sami woman who represented the Centre Party had made a speech in Sami in Parliament, which she had translated into Norwegian; there were a number of other members of Parliament and one minister.

43. Quotas were used for the Sami in the education system and other areas and their use in the labour market had been considered, in consultation with immigrant groups, but insufficient support had been generated.

44. With regard to the statement made by the National Board of Health on HIV/AIDS, a press release had been issued and a letter sent to the Board's counterparts in Europe and to the Centre for Human Rights, which was requested to make it available to interested Committee members.

45. Mr. AHMADU, referring to paragraph 12 of the report, said that it would be useful in future to have a closer breakdown of the different nationalities living in Norway. In the African group, there were undoubtedly Nigerians and other western and central African nationalities in addition to the Ghanaians, and certainly Egyptians and Algerians as well as Moroccans.

46. Pursuing a question raised by Mr. Diaconu the previous day, he wondered whether it was true that a party leader had declared that he would abolish the Sami Assembly once in power, and whether there was any reasonable chance of his being elected.

47. Mr. YUTZIS said that his first reaction to the spokesman system had been that it was a generous gesture, but on reflection he wondered why it was necessary to have someone else to convey complaints, problems or concerns to superior officers.

48. The Committee would be interested to learn of the position of the National Board of Health. Any suggestion that Africans represented a threat to the Norwegian population as far as the transmission of AIDS was concerned would indeed constitute a significant discriminatory if not racist statement.

49. The relationship between language and employment was not an easy matter to resolve, but the authorities did not appear to be addressing it as a matter of priority. It was particularly important to find ways in which the language could best be taught to foreigners, bearing in mind the difficulties experienced by many in learning another language. In addition to the language problem, however, there were certain perceptions of foreigners in society which made prospective employers reluctant to employ them. More information on that aspect would be useful.

50. Mr. GARVALOV said that it was interesting that all three of the Nordic countries to have appeared before the Committee at the present session had a policy of integration. In Norway's case he wondered whether it was aimed at the longer established minorities or the newly arrived immigrants. Integration needed to be carried out in the light of the provisions of the Convention. The State party had a sovereign right to follow an integration policy, but the Committee sought assurances that it would not involve any differentiation between persons who were ethnically or otherwise different.

51. Mr. SHAHI, referring to paragraph 11 of the report, asked what percentage of third generation immigrants had become Norwegian citizens.

52. With regard to language difficulties, if greater attention were paid to teaching the Norwegian language to immigrants their job prospects would undoubtedly improve, as language was a particularly important factor in recruitment.

53. Drawing attention to the reference in paragraph 11 of the core document (HRI/CORE/1/Add.6) to a committee of lawyers to propose constitutional or statutory provisions to increase the effectiveness of human rights instruments in Norway, he asked for information on the current status of human rights treaties in Norwegian law.

54. Mr. de GOUTTES said he was grateful for the explanation of the Government's efforts to combat racial discrimination at a crucial time of an upsurge of the extreme right and its political parties and their exploitation of hostile and xenophobic ideas about the Sami and immigrant minorities, in the run-up to the September elections. The manifestations in Norway reflected the trend in several European countries and elsewhere. The Government's policies were being tested and the Committee looked forward to reading of the outcome in Norway's next report.

55. Mr. ABOUL-NASR said that he was not against integration provided that it was not forced and that the minorities concerned were not deprived of their own religion and customs. In that connection he asked for further information about the refusal to allow a Muslim school to be established and whether similar requests by other religious groups had also been refused. Where could Muslims teach their religion and culture to their children if not in school?

56. Mr. WILLE (Norway) said that the delegation had taken due note of Mr. Ahmadu's comments regarding the demographic breakdown and would bear them in mind in the future.

57. His personal view was that there was no wide support for the abolition of the Sami Assembly and he was confident that the trend towards giving greater powers to the Samis and their Parliament would continue.

58. It was not compulsory for soldiers or other individuals to pursue their complaints through a spokesman: they were free to follow up their own complaints.

59. With regard to the statement by the National Board of Health about the so-called high risk groups, the reaction in certain sectors had been such that

the Board had apologized and emphasized that its goal had always been to protect all parts of the population in Norway, without prejudice, against HIV/AIDS.

60. Norway's policy of integration did not mean assimilation and did not involve force. Its aim was to have a society with equal opportunities, where everyone could develop their own cultural and religious interests and language.

61. The Muslim school had been denied permission first and foremost for linguistic and not religious reasons. Children from any religious group could be exempted from religious instruction in Norwegian schools so that they could receive religious instruction in their own religious centres. The question of the Muslim school had involved a very difficult decision.

62. Norwegian citizenship could be applied for after seven years' residence, although certain categories could apply sooner. Third generation immigrants could certainly apply.

63. The Committee and Country Rapporteur were thanked for having examined Norway's report in a fair and constructive way. Norway attached great importance to the dialogue, and the delegation had taken due note of the comments and suggestions of the Committee and would submit them to the relevant authorities.

64. Mr. RECHETOV (Country Rapporteur) thanked the delegation of Norway for its report, which had further enhanced his respect for Norway.

65. There remained, however, the question of the status of the Convention vis-à-vis Norwegian legislation, because he was not convinced that its full implementation had been ensured. It was hoped that due note would be taken of the importance of the Convention in the scheme of human rights and that that would be reflected in its full incorporation into Norwegian law. The principle that there should be no contradiction between international and domestic norms in legal practice was not the issue: what was important and should be made clear was whether in cases of conflict, international law prevailed.

66. He noted that Norway had provided a wealth of valuable additional information on the Sami, including the welcome news that it had ratified ILO Convention No. 169 and that in six municipalities the Sami language was on an equal footing with Norwegian and had been admitted for use in the courts. He also hailed as positive the information that education in the Sami language was progressing, particularly among Sami women. Nevertheless, he did not agree fully with the assertion by the delegation that the provisions of article 4 (b) of the Convention had been fully implemented in Norway.

67. The deportation from Norway of unaccompanied minors who had entered the territory was a very serious matter and deserved careful attention, which he hoped would be informed by the data he had conveyed to the delegation.

68. The participation of NGOs in compiling the report testified to the care given by Norwegian authorities to information from such sources, for which they were to be commended, if only because that practice was not the norm.

69. There was nothing to indicate that there was any forced assimilation of ethnic minorities. There were persistent fears to that effect but he was convinced that the question of assimilation was left to the minorities themselves to decide.

70. He urged the Norwegian Government to pay heed to Mr. de Gouttes' warning about the destructive potential of some political forces which threatened to undermine democratic societies such as Norway's and ultimately stunt their achievements.

71. The CHAIRMAN thanked the delegation of Norway and conveyed the Committee's congratulations to the State party for its encouraging report and response to the Committee's observations on the previous periodic report.

72. The delegation of Norway withdrew.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 4) (continued)

Bosnia and Herzegovina

73. Mr. van BOVEN (Country Rapporteur) recalled that the Committee had offered its good offices within the framework of its early warning and urgent procedures through its decisions 1 (48) and 1 (49) adopted the previous year and had sought to respond to the new situation that had come about in Bosnia and Herzegovina following the Dayton Agreement of 1995. The main question yet to be addressed was therefore the extent to which the relevant Dayton Agreement provisions had been implemented, since, according to information available in the report of the Special Rapporteur of the Commission on Human Rights, Ms. Elisabeth Rehn (E/CN.4/1997/56), much remained to be achieved in that regard.

74. The Special Rapporteur had found that the institutions created under the Agreement were not all functioning as they should and while there had been some progress in the field of human rights, in particular with the creation of a national Commission on Human Rights, progress throughout 1996 had been minimal in certain key areas such as the return of refugees and displaced persons to their homes. There certainly was cause for concern about the situation in Bosnia and Herzegovina insofar as it remained a divided country and the trend was towards a permanent demarcation of national and ethnic boundaries which echoed the confrontational lines between the groups.

75. A major issue of concern was whether refugees and displaced persons could and did return. The Dayton Agreement guaranteed them the right to do so and the International Covenant on Civil and Political Rights also provided for free choice of place of residence to all persons lawfully within a State's territory. Serious obstacles to those rights still existed in Bosnia and Herzegovina. Of more than 2 million citizens who had been displaced, UNHCR

estimated that only 250,000 had returned, mostly to areas controlled by authorities of their own national groups. He drew attention to the Committee's General Recommendation XXII (49), which emphasized the right of all refugees and displaced persons freely to return to their homes of origin under conditions of safety and the obligation of States parties to ensure that the return of such persons was voluntary and to observe the principle of non-refoulement and non-expulsion of refugees.

76. He welcomed the reference to the Convention in paragraph 21 of the report of the Special Rapporteur, one of the very few mentions of the Convention by rapporteurs of the Commission on Human Rights. Incidents of harassment and threats on the basis of national origin and political opinion which had come to the Special Rapporteur's attention had made it clear that freedom from discrimination enshrined in the Convention and other human rights instruments was not effective in Bosnia and Herzegovina.

77. He quoted from General Recommendation XXII (49), paragraphs 2 (c) and (d), to recall the Committee's position on the points raised by the Special Rapporteur on property rights in Bosnia and Herzegovina, where domestic legislation and administrative practices which interfered with property rights and the right to return and conflicted with the Dayton Agreement were still in effect and were being implemented, hindering the return of refugees and displaced persons.

78. According to the Special Rapporteur's report, persons, among them Mr. Radovan Karadzic, who had been indicted by the International Criminal Tribunal for the Former Yugoslavia (ICFY) for grave violations of humanitarian law had been enjoying impunity and freedom of movement throughout the territory without fear of apprehension. In resolution 1997/57, the Commission on Human Rights had called upon all States and all parties to the Peace Agreement to meet their obligations to cooperate fully with the Tribunal, particularly with respect to bringing indicted persons before the Tribunal. The Committee had made several calls to that effect as well, notably in paragraph 4 of its decision 1 (49).

79. Those were some of the points of particular relevance. He had no particular proposals to make in the light of his report but remained open to suggestions from members of the Committee.

80. The CHAIRMAN asked Mr. van Boven whether he had considered analysing in his report the manner in which the mass media reported on events in Bosnia and Herzegovina and the extent to which its reporting contributed to deepening divisions.

81. Mr. van BOVEN said that the question had not been at the forefront of his mind when he had prepared the report but he was willing to consider it further if members of the Committee so wished.

82. Mr. RECHETOV asked whether Mr. van Boven had any information, or knew where information might be available, on how the 2 million refugees he had referred to were broken down by nationality. When had the largest waves of ethnic cleansing occurred?

83. Mr. van BOVEN said he had no specific information beyond what was contained in the report of the Special Rapporteur.

84. Mr. ABOUL-NASR said the Committee should have been better prepared to discuss the topic by having its attention drawn to the documents to be considered. Better organization would also have enabled the Country Rapporteur to draw on information other than the two reports of the Special Rapporteur. Had the State party refused to attend the meeting, or not replied to the request? When and where had it been notified that it would be discussed by the Committee? The Committee should issue a short statement noting that the State party had not attended the relevant meeting, despite having been notified, referring to the Committee's previous decisions on Bosnia and Herzegovina, expressing serious concern at the continuing problems, such as displacement, and urging that efforts must continue to implement the Agreement and find a solution to the problems, especially those of direct concern to the Convention, such as ethnic cleansing, the return of displaced persons and property.

85. Mr. van BOVEN said he agreed, but would like his situation to be understood. He had no office or staff, and requests for information or assistance were not always answered or, if they were, were not always of great use. If the Committee wanted to continue with the early warning and urgent procedure in a serious manner, it would have to re-examine its methods and sources of information failing which the procedure risked becoming a symbolic gesture of no value whatsoever. He also saw very little purpose in drafting any statements that were merely symbolic.

86. Mr. HUSBANDS (Acting Secretary) said the State party had been notified of the present meeting - in writing on 9 June, and also by telephone. The Permanent Mission had told him the matter had been discussed with the capital and it was the Government's wish not to have anyone attend. A reference file contained all the documentation, which had been sent to the Country Rapporteur; a duplicate set was available in the meeting room. In addition, each member of the Committee had received a copy of all the documents on the first day of the session. There were 33 documents in the Bosnia and Herzegovina file; Mr. van Boven had relied extensively on only one. In future, it would be helpful for country rapporteurs under the prevention procedure to tell the Secretariat which documents they would be relying on most, so that they could be distributed to all members in advance.

87. Mr. WOLFRUM said that the Committee's working methods could be much more effective if it received the bulk of the information at least four to five weeks before each session, which was not now the case.

88. He knew from the mass media and other sources that some of the many refugees from Bosnia and Herzegovina who had returned to their country from Germany had done so voluntarily and some had not; each German Land acted differently. How were those refugees being received in Bosnia and Herzegovina? His information was that, if they were Muslims and were returning to a place of origin predominantly populated by the Muslim community, they were well received; if, however, they were Bosnian Serbs or Croats returning to a place predominantly inhabited by another community, they faced tremendous problems. Houses recently built by the European Union, for

example, had been burned down. The problem of continuing ethnic cleansing was reported by all the mass media in Germany, and his perception was therefore different from Mr. van Boven's.

89. The Committee should state that it had discussed the situation; deplore the fact that the State party had not participated; and deplore the persistence of the effects of ethnic cleansing. He would, however, be opposed to saying anything about documentation.

90. Mr. SHERIFIS said it was true that the Country Rapporteur had been working under difficult circumstances. The Committee must study the procedure further, and if it wished to continue with it, should proceed in a serious and businesslike fashion. The Committee could do better than to make symbolic gestures, especially with issues of such paramount importance. The Country Rapporteur had quoted extensively from the Special Rapporteur's report, dated 29 January 1997, but there had been other important developments since then, such as the 30 May meeting of the Steering Committee of the Peace Implementation Conference, at the ministerial level, to review progress in implementing the Bosnia and Herzegovina Peace Agreement. That Committee had expressed its deep concern with the pattern of discrimination and harassment of ethnic minorities throughout the country, which had occurred with the complacency of the authorities. It had also requested the competent authorities to cooperate with the Real Property Commission and with the Commission on Human Rights.

91. There were competent officials within the Secretariat who dealt with the issue: why not ask them to be present and provide inside information when the Committee next considered it? The Committee's next session coincided with that of the Commission on Human Rights; why not ask the Special Rapporteur to be present during the Committee's consideration of the issue? The Committee could also simply reiterate the position expressed in the decisions adopted at its forty-eighth and forty-ninth sessions.

92. Mr. de GOUTTES supported the suggestion to invite the Special Rapporteur to address the Committee. A statement based on Mr. Aboul-Nasr's proposals could be envisaged, stressing the four issues highlighted by Mr. van Boven: displaced persons; security of person; property rights; and the questions of impunity and cooperation with the International Criminal Tribunal. The Committee should also ask to be informed in greater detail on the work done by the Ombudsperson, Mrs. Haller, and the Dayton-created Commission on Human Rights, composed of judges from Bosnia and Herzegovina and judges designated by the Council of Europe.

93. Mr. RECHETOV said he agreed with Mr. Aboul-Nasr and was in favour of the Committee continuing its work on the subject. Information on the 2 million refugees could certainly be obtained.

94. The resolutions of the Security Council had never set the International Criminal Tribunal the task of defining a legal concept for ethnic cleansing. It had once been said that genocide could not be defined legally, and yet it had been done. There was not a single reference to ethnic cleansing in the Statutes of the Hague Tribunal, and yet people were already being put on trial and accused of particular war crimes, acts of violence and genocide. He asked

Mr. van Boven, who had been present when the Statutes had been devised, why there was no definition of ethnic cleansing as a new crime. If all the facts and figures were available on how it had all taken place, justice could be done in a more tangible way.

95. Mr. GARVALOV said the Dayton Agreement was not working as intended, and the major issues had not been resolved. Division lines remained, as did ethnic cleansing or racial discrimination or harassment on ethnic and other grounds; that was the present situation in Bosnia and Herzegovina. Rather than reiterating the Committee's previous decisions, he would prefer that it express its deep concern that very little had been done in the way of resolving the major issues in the State party. If present trends continued, the lines of division would only deepen; the idea of changing the attitudes of the different ethnic groups within 10 or 20 years was not realistic.

96. Mr. SHAHI said it might not be appropriate to refer to the absence of a State party representative; one dispute among the key factions there had been their failure to agree on a list of diplomatic representatives, although the problem might since have been resolved through the efforts of United States ambassador Richard Holbrooke. The major issues remained, however; they had still not been resolved in accordance with the Dayton process. The Committee should stress the importance of removing war criminals from positions of authority, even if they had already resigned from their formal positions, as indispensable to any progress in implementing the remaining aspects of the Dayton Agreement.

97. The Committee already had sufficient information to draw up a statement along the lines suggested. It had followed developments in Bosnia and Herzegovina through the mass media, and it knew the main outlines of what needed to be accomplished. Mr. van Boven was in a position to draft such a text. It would have more than just symbolic value; after all, what value did many Security Council resolutions have? The Committee should not feel diffident on that account; having placed Bosnia and Herzegovina on the agenda of every session, silence might be construed as a lack of interest or indifference, or as meaning that the Committee wished to abdicate its responsibility for finding a way to improve the situation.

The meeting rose at 1.05 p.m.

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the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1234th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 15 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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GE.97-17916 (E)

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTY-FIRST SESSION:

(b) Effective implementation of international instruments on human rights

Note by the Secretary-General transmitting to the Commission on Human Rights the report of an independent expert, Philip Alston, on the effective functioning of bodies established pursuant to United Nations human rights instruments

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the eleventh periodic report of Mexico

The meeting was called to order at 3.05 p.m.

ORGANIZATIONAL AND OTHER MATTERS

1. The CHAIRMAN drew the attention of the members of the Committee to a note before them (CERD/C/51/Misc.33) on the march planned in Roskilde, Denmark, in memory of Rudolph Hess.

2. Mr. ABOUL-NASR, supported by Mr. Garvalov and Mr. Rechetov, said the Committee had better things to do than to fuel the debate on Nazism when so many massacres had occurred without the international community paying much attention.

3. Mr. WOLFRUM said that it was he, as country rapporteur for Denmark, who had asked for the note to be distributed, as the march was being planned by an organization which was known for its neo-Nazi activities and which should clearly be prohibited under article 4 (b) of the Convention. That having been said, the Committee still had the option of expressing its opinion after the event.

4. The CHAIRMAN said he took it the Committee did not wish to express an opinion on the matter.

5. It was so decided.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 4) (continued)

Bosnia and Herzegovina (CERD/C/247 and Add.1) (continued)

6. Mr. AHMADU said that the cases which should be considered under an urgent procedure should take up at least as much of the Committee's time as the consideration of periodic reports and should even take precedence over the latter. In Bosnia and Herzegovina, the Dayton Agreement was clearly not being applied as it should be, and Mr. Holbrooke was continually having to remind the parties of their commitments under the Agreement. If nothing was done, it would become impossible to keep track of the persons who should be brought to trial and the Agreement would become a dead letter. The Committee should make a statement, even if only symbolic. At least it would be read and would show how seriously the Committee viewed the situation.

7. In the case of Bosnia and Herzegovina, the Committee should also at least talk to Mrs. Rehn, Special Rapporteur of the Commission on Human Rights, about the human rights situation in the territory of the former Yugoslavia, and in any case should hold discussions with representatives of the countries covered by urgent procedures. The States had to be convinced that the Committee wished only to improve its understanding of the situation in their country, in order to help them overcome their problems.

8. The CHAIRMAN said that most of the members shared Mr. Ahmadu's opinion and recalled that the Committee had decided to give greater priority to the

consideration of prevention measures than to its examination of over overdue reports. The Committee should ask the country rapporteur for Bosnia and Herzegovina to prepare a draft decision for the Committee to consider in a week's time.

9. It was so decided.

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTY-FIRST SESSION:

(b) Effective implementation of international instruments on human rights

Note by the Secretary-General transmitting to the Commission on Human Rights the report of an independent expert, Philip Alston, on the effective functioning of bodies established pursuant to United Nations human rights instruments (E/CN.4/1997/74)

10. The CHAIRMAN drew attention to Commission on Human Rights decision 1997/105, by which it invited the Secretary-General to solicit the views of the relevant bodies on Mr. Alston's report.

11. Mr. GARVALOV said that the Committee was duty bound to reply to that request, especially as it had virtually been accused by Mr. Alston of refusing to discuss the proposals he had been making for almost eight years. Although the report undeniably had some constructive aspects, his attention had been caught in particular by the author's arguments that the treaty system was "unsustainable", as stated in paragraphs 10 and 12. Mr. Alston placed much of the blame for the system's malfunctioning on the treaty bodies themselves, rather than on the States parties or the United Nations. Mr. Alston also based himself on the objective of universal ratification of the Covenants and Conventions to suggest, on the one hand, that if that objective was not achieved, the fault would lie with the treaty bodies, and on the other hand, that if one day it was realized those bodies would never manage to keep up with the staggering number of reports to be considered, so that their conclusions and recommendations would be outdated and useless.

12. The treaty bodies' responsibilities lay in an objective and timely consideration of State party reports, promoting a constructive dialogue with States parties and coming up with effective, constructive conclusions and follow-up action. He wondered in what way the treaty bodies had not been performing their duties: had they not already become more efficient by improving their methods of work? Had they not spurred some States parties into amending some of their laws and practices? Had they not aroused public interest in human rights and come up with procedures for considering urgent cases and ensuring prevention? Why then give up the collective wisdom of the treaty bodies in favour of a one-man monitoring mechanism?

13. It was surprising that Mr. Alston had failed to analyse the real situation of the treaty bodies. They were actually unable to develop their potential to the fullest extent. They had too few meetings; their reports were not given the consideration they deserved; cooperation between them was almost non-existent and two of them were more favoured than the others in terms of secretariat services, working groups, pre-sessional meetings, number

of meetings and sessions and so forth. Their own Committee, did not have enough time, especially to consider the follow-up given to its conclusions, but it nonetheless managed to complete its workload during its two three-week sessions. Pages 97-103 of its 1996 report contained a description of its working methods. Unfortunately, Mr. Alston had based his report on the study of two treaty bodies, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights; the Committee on the Elimination of Racial Discrimination had never been consulted, despite the fact that the author was calling for a substantial exchange of views.

14. The treaty bodies were doing everything possible to encourage States parties to publicize the reports they submitted to those bodies, to make human rights a priority objective of the United Nations, to examine in depth the human rights situation in States parties - in short, to respond to the appeal made by the Secretary-General and the World Conference on Human Rights. Instead of limiting the number of committees, as suggested by Mr. Alston in paragraph 94, they should be given the means to be effective. To that end, the United Nations and States parties should study the problem of compliance and find ways to resolve it; the United Nations should grant all the treaty bodies the necessary resources to develop their potential on an equal footing; the treaty bodies should rationalize their working methods, consider reports thoroughly and objectively, draft concluding observations with specific requests, outline follow-up procedures, etc.; the United Nations should organize a conference for the treaty bodies; their annual reports, and in particular their decisions on early warning and urgent cases, should be transmitted directly to the High Commissioner for Human Rights and the Secretary-General; the pertinent treaties should be amended or other means developed to permit States parties to submit a consolidated report, divided into as many chapters as there were bodies, with each chapter to be considered by the relevant body; lastly coordination and consultation among the human rights bodies within the United Nations system should be institutionalized.

15. Mr. WOLFRUM said that, given the importance of Mr. Alston's report for any possible reform of the treaty body system, the Committee should express its views on the subject and in particular challenge the erroneous interpretation of the situation used by the author as his basis for asserting that the system was unsustainable. According to paragraphs 37 and 48 of the report, the Committee was expecting 401 overdue reports and would have to spend three years on their consideration if they were submitted. In fact, Mr. Alston had never tried to find out how the Committee worked; when it studied the situation in a country, it often considered several reports at once and rarely allowed more than six months to elapse between the receipt of a report and its consideration. If the Committee on the Elimination of Discrimination against Women considered the reports submitted to it on average three years after receiving them, as stated in paragraph 51, it was simply because that body met even less frequently than the Committee on the Elimination of Racial Discrimination.

16. He recognized that certain reforms were necessary, but suggested that they should not be instituted until after the extent, cause and frequency of the delays mentioned by Mr. Alston had been determined. Furthermore, reforms

should be pertinent; for example, precious time should not be wasted trying to promote universal ratification of human rights instruments, which was not the treaty bodies' responsibility.

17. Any reform of the treaty bodies should also take account of what the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights did or could do. The Committee on the Elimination of Racial Discrimination in particular should not restrict its scope by focusing its action on individual questions. The Convention was already specific enough in itself, and the Committee should always have the flexibility to consider situations that sometimes developed very rapidly. The only shift of emphasis which he thought worthwhile might perhaps apply to the concluding observations, which could be more specific and aid in evaluating the situation described in subsequent reports of the States concerned.

18. He was not in favour of setting up pre-sessional working groups for the Committee, as, unlike the Human Rights Committee, it was composed not of jurists who dealt exclusively with legal matters and were therefore "interchangeable", but rather of experts drawn from many backgrounds, which was a major asset in combating racial discrimination. He was opposed to the idea of limiting the reports of States parties to 50 pages, as suggested in paragraph 53, considering that the Committee had never complained of the length of a report; furthermore, if the information provided by the Government was too brief, the Committee had to turn to information provided by the print media, television or non-governmental organizations (NGOs), which the Committee preferred to avoid.

19. Unlike the author of the report, he thought that the early warning and urgent procedures should be maintained, provided that the preparatory activities, in particular the system of documentation, were streamlined. He was prepared to admit that asking States parties to prepare comprehensive reports would have the advantage of enabling the Committee to find information on the implementation of other conventions and on the work of other treaty bodies in one and the same document. Similarly, the suggestion that the Committee's concluding observations on periodic reports should be clearer and more specific should obviously be endorsed, as should the idea of the Committee allowing States parties to express their own views on those observations and that of inviting the Third Committee (social, humanitarian and cultural) to communicate its observations in order to ensure a continuing dialogue.

20. The Committee should try to avoid overlapping with the activities of other bodies established pursuant to international human rights instruments, particularly those of the Sub-Commission. In that respect, the division of labour among treaty bodies should be improved. The planned reform of the system should not only cover human rights treaty bodies, as recommended by Mr. Alston, but should also take account of the fact that those bodies had the same objectives and should combine and coordinate their efforts. At the practical level, the documentation and library services made available to the Committee should be improved.

21. Mr. van BOVEN said the Committee should not reject en bloc all the proposals made by Mr. Alston in his capacity as an independent expert, but

should examine them with an open mind. As to short- and medium-term measures, he was willing to consider the ideas put forward by other members of the Committee. For example, the Committee could advise States parties in advance of the main questions it was going to ask them at the meeting on the periodic reports, as other committees did. Furthermore, States parties should be able to comment on the Committee's concluding observations and, as suggested by Mr. Alston, those observations should be made clearer and more specific. Early warning procedures, which left a lot to be desired owing to inadequate preparation and follow-up, should also be improved.

22. As to long-term measures, the Committee should study the solutions proposed by Mr. Alston, not solely from its own viewpoint, but from all angles, and also take into consideration the concerns and needs of States parties, bearing in mind that, even in the best of cases, States parties succeeded in fulfilling their reporting obligations on time only with difficulty. Unlike the International Labour Organization (ILO), the United Nations did not have a unified system for monitoring the implementation of conventions prepared under its auspices. That considerably complicated the task of the States parties, which had to submit reports to different human rights treaty bodies. The idea of consolidating reports into a single document was therefore worth pursuing. The Committee had already improved its functioning in certain respects, but there was nothing to stop it from creating one or two mechanisms for monitoring the implementation of human rights conventions. Introducing the reforms proposed by Mr. Alston, particularly in paragraph 120 of his report, would necessarily be a lengthy process, which should be undertaken in a constructive and broad-minded spirit.

23. Mrs. ZOU said that in his report, Mr. Alston presented constructive and interesting proposals that deserved close consideration. The idea of asking States parties to prepare comprehensive reports had several advantages, in particular that of considerably simplifying the task of States parties and eliminating overlaps. On the other hand, the proposal to merge the work of the human rights treaty bodies was much less convincing: that would raise a number of practical, almost insoluble problems. Dialogue with States parties would be virtually precluded. If the single-report solution was adopted, at the very least State party reports would have to be studied separately by the Committees with regard to their respective areas of concern. There would be other major problems, such as the different frequencies of the reports submitted by States parties to the different committees, and the need to coordinate the activities of delegations attending meetings which were considering country reports.

24. Mr. VALENCIA RODRÍGUEZ said that the Committee, which had been established under the Convention, was entitled to organize its work as it wished on the basis of the provisions of the Charter and of the basic human rights instruments, in the light of its essential mission, which was to ensure the universal implementation of the Convention subject to respecting the sovereignty of States parties.

25. In view of the constant growth of its workload as a result of the increasing number of States parties to the Convention and the proliferation of issues it was handling, the Committee should take steps to improve its functioning. It should in particular restrict its activities to the areas

defined in the Convention and refrain from dealing with those that came under other treaty bodies. In preparing its annual reports, it should allow its members enough time to submit their comments to the rapporteurs, and ensure that its concluding observations were concise and to the point and reflected positions adopted by consensus. In order to ensure that all reports were considered, the total duration of the Committee's two annual sessions could be extended to six or seven weeks, or a pre-sessional one-week meeting could be added, during which five Committee members would prepare the main questions to put to the States parties, with the assistance of the rapporteurs.

26. As far as self-discipline was concerned, the Committee should limit the speaking time of rapporteurs to 30 minutes and that of other members to 10 minutes. It could be suggested that States parties limit their periodic reports to 50 pages and prepare comprehensive reports in which a special chapter would deal with implementation of the Convention. Annual coordination and consultation meetings should also continue to be held with the chairpersons of the treaty bodies, particularly in order to eliminate any overlaps between them.

27. Mr. DIACONU said that in its comment the Committee should at the outset state that it had studied Mr. Alston's report from different standpoints and with an open mind, guided by the need to ensure increasingly complete and universal implementation of the Convention. It should try to present its points of view clearly and forcefully, given the important impact that forthcoming decisions would be certain to have on its activities. The Committee should stress that activities relating to its principal mission were being carried out in a normal fashion, that it was not in a critical state and that the various aspects of consideration of State party periodic reports were being constantly improved. It should energetically deny the assertion that it was expecting 400 reports and recall that the longest delays in that respect were considerably less than the independent expert claimed.

28. The number of meetings, currently set at 60 per year, seemed sufficient. Although the reports, even those of federal States, rarely exceeded 50 pages, the idea of asking States parties to submit consolidated reports could be envisaged, so long as they included a core document on the implementation of human rights instruments as well as sections directed to the bodies concerned with specific questions, such as torture, women or children. With regard to urgent procedures, any overlaps with the work of other United Nations bodies should be eliminated. However, the proposal to set up a single committee responsible for considering the report of each State party was unacceptable, as it did not take account of the particular specialization and competence required of the different treaty bodies for considering the reports.

29. The Committee should adopt more specific recommendations and conclusions and should refrain from dealing with areas that came under other bodies. In its annual report, for each of the States considered it should combine the sections that dealt with principal subjects of concern and with suggestions and recommendations, in order to avoid repetition, and should do away with the introduction and the part dealing with positive aspects. A member of the secretariat could be instructed to monitor any overlap of activities between treaty bodies. The Chairman of the Committee could personally submit the Committee's annual report to the Third Committee and, prior to consideration

of the relevant periodic report, each country rapporteur could distribute a list of issues to take up, which would ease the task of States parties. It would also be useful for the States to be able to submit their own comments on the Committee's concluding observations concerning their periodic reports, so that they could appear in the Committee's annual report.

30. He supported Mr. Valencia Rodríguez' proposals on self-discipline at Committee meetings; in its draft the Committee should emphasize that it was making an effort to improve its working methods, simply in order to improve its efficiency.

31. Mr. SHERIFIS proposed asking the Chairman to draft a text setting forth the views of the Committee on Mr. Alston's report, for adoption by the Committee.

32. Mr. de GOUTTES said he was opposed neither to the idea of asking States parties to limit their reports to 50 pages nor to that of having them prepare a consolidated report for all the treaty bodies, so long as the section on implementation of the Convention was sufficiently developed. That method would lighten the workload for States submitting reports to several treaty bodies. Unlike Mr. Alston, however, he did not think that the urgent procedures could be considered practically useless.

33. With regard to the Committee's working languages, he was afraid that the proposals outlined by Mr. Alston would defeat the principle of linguistic diversity to which Member States remained committed and would institute real linguistic discrimination. Progress had been achieved by the Committee regarding the quality of the concluding observations or conclusions of the different treaty bodies. Nevertheless, the Committee should endeavour to refine its conclusions even more and allow States parties to comment on them. With regard to the procedure for consideration of reports, prior to consideration of a given report, the respective country rapporteur should discuss the issues he planned to address with the authorities of that country. Furthermore, the Committee should ask its questions more concisely, so as not to give delegations the impression that the Committee was limiting the time it allowed for their reply. The members should probably be content with raising points that had not been touched upon by the rapporteur.

34. Mr. ABOUL-NASR said the Committee was under no obligation whatsoever to issue a comment on Mr. Alston's report. That having been being said, the judicious remarks which had been made in the course of the meeting concerning the functioning of the Committee should be noted, on the understanding that any modification in Committee procedure should be in conformity with its rules of procedure. The Chairman should draft a text summing up the Committee's views on the report under study.

35. Mr. SHAHI agreed that in some respects the Committee could streamline its procedure for consideration of reports. He also supported the suggestion that periodic reports should be limited to 50 pages. On the other hand, he was strongly opposed to the idea of replacing the urgent procedures with a system whereby the representatives or experts of the Commission on Human Rights or some other body would deal with urgent situations, while the treaty bodies would focus mainly on State party reports. The urgent procedures

approach had been adopted precisely in order to prevent massive violations of human rights and because the special rapporteur procedure had proven ineffective in that respect, as those persons were not sent into the field until after the event, when the violations had already been committed. The Committee should reaffirm the need for the urgent procedures it had adopted. The idea of having a consolidated report prepared for all the treaty bodies was in his view unrealistic, given the specificity of the different international instruments concerned. He did not agree either with Mr. Alston that the current system for the submission of reports was not sustainable. That system could be improved, and it was up to each treaty body to determine to what extent it could reform its procedures in order to reduce the workload involved in the preparation of individual State reports. It might be pointed out that the Committee's action had been successful, since the number of States that had ratified the Convention had grown. The treaty bodies were in the best position to make recommendations on the implementation of the conventions which concerned them, and the idea of merging those bodies was not at all realistic. However, he agreed with Mr. Alston that the concluding observations should be even more specific.

36. Mr. AHMADU said that the Committee should endeavour to streamline its procedures for the consideration of reports. He was also of the opinion that the Chairman should prepare a document reflecting the Committee's views on Mr. Alston's report.

37. The CHAIRMAN said he took it that the Committee wished him to prepare two texts summing up the debate on Mr. Alston's report, one for members of the Committee, to be drafted with the help of the two Vice-Chairmen, and the other to be a revised version of the first text, which would be submitted to the meeting of persons chairing the treaty bodies in a month's time.

38. Mr. SHAHI suggested that Mr. de Gouttes should also join the drafting group in view of Mr. Alston's emphasis on "urgent procedures".

39. It was so decided.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the eleventh periodic report of Mexico (CERD/C/50/Misc.24, future CERD/C/304/Add.30) (continued)

Paragraph 4

40. Mr. de GOUTTES said that he would be presenting the amendments proposed by Committee members. In paragraph 4, Mr. Yutzis had proposed adding the phrase "mostly indigenous" after the word "population" on the fourth line. Mr. Shahi had suggested adding the word "entirely" to the last sentence, before "succeeded".

41. Paragraph 4 was adopted, as amended.

Paragraphs 5, 6 and 7

42. Paragraphs 5, 6 and 7 were adopted.

Additional paragraph (new paragraph 8)

43. Mr. de GOUTTES said it had been suggested that the last two sentences of paragraph 2 should be made into a new paragraph following paragraph 7, which would then become paragraph 8. All the subsequent paragraphs would be renumbered.

44. It was so decided.

Paragraph 8 (new paragraph 9)

45. Mr. de GOUTTES at Mr. Diaconu's suggestion, proposed amending the second sentence of the paragraph to read: ", sometimes involving public authorities,".

46. Paragraph 8 (new paragraph 9) was adopted, as amended.

Paragraph 9 (new paragraph 10)

47. Paragraph 9 (new paragraph 10) was adopted.

Paragraph 10 (new paragraph 11)

48. Mr. de GOUTTES said that Mr. Valencia Rodríguez proposed deleting the phrase "the Committee notes with concern that", so that the paragraph would read: "With regard to article 5 of the Convention, in certain situations, an individual's right to enjoy equal treatment in the courts is not effectively guaranteed ...".

49. Paragraph 10 (new paragraph 11) was adopted, as amended.

Paragraph 11 (new paragraph 12)

50. Mr. de GOUTTES proposed amending the paragraph to read: "Concern was expressed concerning the right to security of person of indigenous inhabitants and illegal immigrants. This right to security of person has in certain cases been violated by representatives of the forces of law and order, paramilitary groups and landowners. All too often those responsible for these crimes have gone unpunished."

51. Paragraph 11 (new paragraph 12) was adopted, as amended.

Paragraph 12 (new paragraph 13)

52. Mr. ABOUL-NASR wondered whether "civil" rights had been deliberately omitted in paragraph 12, which dealt with political rights, considering that economic, social and cultural rights were mentioned in paragraph 13.

53. Mr. de GOUTTES said that civil rights were not mentioned in paragraph 12 because the Committee had not been informed of any violations of those rights.

54. Paragraph 12 (new paragraph 13) was adopted.

Paragraph 13 (new paragraph 14)

55. Mr. de GOUTTES said that Mr. Valencia Rodríguez proposed amending the first sentence of the paragraph to read: "With respect to the enjoyment of economic, social and cultural rights, the Committee notes with concern that persons from indigenous groups live in extreme poverty."

56. Mr. SHERIFIS proposed replacing the phrase "the Committee notes with concern" with "it is noted with concern".

57. Paragraph 13 (new paragraph 14) was adopted, as amended.

Paragraphs 14, 15 and 16 (new paragraphs 15, 16 and 17)

58. Paragraphs 14, 15 and 16 (new paragraphs 15, 16 and 17) were adopted.

Paragraph 17 (new paragraph 18)

59. Mr. de GOUTTES said that Mr. Valencia Rodríguez proposed amending the paragraph to read: "The fact that the report of the State party contains no accurate statistics on the indigenous population makes it difficult to analyse the work done on the rights recognized by the Convention for this large segment of the population."

60. Mr. GARVALOV proposed replacing "recognized by" with "listed in".

61. Mr. de GOUTTES suggested that "reconnus par" should then be replaced in the French version with "énoncés dans".

62. Paragraph 17 (new paragraph 18) was adopted, as amended.

Paragraph 18 (new paragraph 19)

63. Mr. de GOUTTES proposed replacing the word "lastly" at the beginning of the paragraph with the word "finally" in the English version.

64. Paragraph 18 (new paragraph 19) was adopted, as amended.

Paragraph 19 (new paragraph 20)

65. Mr. de GOUTTES said that the Chairman and Mr. Diaconu proposed amending the paragraph to read: "The State party is requested to furnish, in its next report, detailed information on the situation of the various indigenous groups living in Mexico."

66. Paragraph 19 (new paragraph 20) was adopted, as amended.

Paragraph 20 (new paragraph 21)

67. Mr. de GOUTTES said that Mr. Valencia Rodríguez proposed deleting the words "sean más eficaces" at the end of the first sentence in the Spanish version.

68. The CHAIRMAN suggested adding the words "members of" before "all groups of the population" at the beginning of the third line of the English text. He also proposed deleting the word "should" in the fifth line and replacing the words "those targeting" with "among" in the penultimate line.

69. Paragraph 20 (new paragraph 21) was adopted, as amended.

Paragraph 21 (new paragraph 22)

70. Mr. YUTZIS proposed amending the second line of the paragraph to read: "... information containing precise indicators on ...".

71. Paragraph 21 (new paragraph 22) was adopted, as amended.

Paragraph 22 (new paragraph 23)

72. The CHAIRMAN suggested deleting the word "should" from the first line of the English text.

73. Mr. de GOUTTES, at Mr. Diaconu's suggestion, proposed dividing the paragraph into two, with the second sentence becoming a separate paragraph.

74. It was so decided.

75. Paragraph 22 (new paragraph 23), as amended, and the additional paragraph were adopted.

Paragraph 23 (new paragraph 25)

76. The CHAIRMAN proposed deleting the word "should" from the first line of the English text.

77. Paragraph 23 (new paragraph 25) was adopted, as amended.

Paragraph 24 (new paragraph 26)

78. The CHAIRMAN proposed again deleting the word "should" from the first line.

79. Mr. de GOUTTES proposed replacing the words "de tels crimes" with "de telles infractions" in the fifth line of the French text.

80. Paragraph 24 (new paragraph 26) was adopted, as amended.

Paragraph 25 (new paragraph 27)

81. The CHAIRMAN proposed once more deleting the word "should" from the first line.

82. Mr. ABOUL-NASR questioned the need to refer to "large" landowners.

83. Mr. YUTZIS said that in Latin America, that expression could designate subjects of law which were not necessarily corporations. It might therefore be more appropriate to refer to large landowners and large real estate companies.

84. The CHAIRMAN proposed continuing consideration of paragraph 25 (new paragraph 27) at a subsequent meeting.

85. It was so decided.

The meeting rose at 6.05 p.m.

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the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1235th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 18 August 1997, at 10 a.m.

Chairman: Mr. BANTON

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GE.97-17975 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning the eleventh and twelfth periodic reports of Algeria (continued) (CERD/C/51/Misc.15, future CERD/C/304/Add.33)

1. The CHAIRMAN invited the Committee to resume its consideration of the draft concluding observations concerning the periodic reports of Algeria.

Paragraph 10

2. Mr. WOJ,FRUM said that as there was no obligation on a State party to incorporate article 1.1 of the Convention into its legal framework, particularly into its Constitution, the paragraph should either be reworded as previously proposed, or deleted.

3. Mr. DIACONU suggested that the last phrase of the paragraph, "to incorporate the definition of 'racial discrimination' contained in article 1 of the Convention in its domestic law" should be amended to read: "to incorporate the prohibition of racial discrimination in its domestic law in accordance with the Convention".

4. Mr. GARVALOV reminded the Committee that it had decided to delete the entire phrase from its concluding observations on the Philippines. He was, however, not opposed to Mr. Diaconu's suggestion.

5. The CHAIRMAN said he took it that the Committee wished to amend the paragraph as suggested by Mr. Diaconu.

Paragraph 11

6. The CHAIRMAN, responding to a suggestion by Mr. DIACONU, said he took it that the Committee wished to insert paragraph 11 before paragraph 9.

Paragraph 15

7. The CHAIRMAN observed that the word "real" was redundant and should be deleted.

Paragraph 17

8. Mr. DIACONU said that, in line with paragraph 10, the last phrase of the paragraph, following the words "domestic legislation" should be amended to read: "... a prohibition of racial discrimination in accordance with the Convention."

9. The CHAIRMAN said he took it that the Committee agreed to that amendment.

Paragraph 18

10. Mr. ABOUL-NASR asked what amount of ethnic detail the Committee had decided to request in connection with demographic composition.

11. The CHAIRMAN replied that in accordance with paragraph 8 of the general guidelines regarding the form and content of reports to be submitted under article 9, paragraph 1 of the Convention (CERD/C/70/Rev.3), States parties were requested, as an alternative, to provide any other quantitative information available, and failing that, to provide a qualitative assessment.

Paragraph 20

12. The CHAIRMAN pointed out that the words "violence on bodily harm" should read "violence or bodily harm".

Paragraph 21

13. The CHAIRMAN, in response to a suggestion by Mr. SHAHI, said that the word "complaints" covered "allegations" and that he took it that the Committee could therefore agree to delete the latter.

Paragraph 23

14. Mr. GARVALOV suggested that the words "a systematic information campaign" should be replaced by "an effective information campaign".

15. Mr. DIACONU suggested that the paragraph should consist of the first two sentences of the paragraph only.

16. Mr. SHERIFIS agreed with the amendment proposed by Mr. Garvalov but failed to understand why the reference in the last sentence to the dissemination of the report and of the Committee's concluding observations should be deleted. It always appeared in the concluding observations.

17. The CHAIRMAN said that he therefore took it that the Committee wished to delete only the third sentence, subject to some improved drafting which he would undertake in cooperation with Mrs. Sadiq Ali.

18. Mr. SHERIFIS said that the Committee should, as a matter of policy, put a reference to article 14 in the concluding observations of all countries which had made a declaration under that article, so that all States parties were given equal treatment.

19. The CHAIRMAN suggested that that point be discussed at the end of the session in conjunction with Mr. Aboul-Nasr's proposals for making the concluding observations shorter and more uniform.

Paragraph 25

20. Mr. SHERIFIS said that while in Algeria's case the Committee was right to request a comprehensive report next time, it should indicate in the case of each State party whether its next report should be comprehensive or updated. That matter might also be discussed in conjunction with Mr. Aboul-Nasr's suggestions.

21. The CHAIRMAN fully agreed to that suggestion. If there were any cases from the present session in which the Committee had not done so, attention should be drawn to them while there was still time for rectification.

22. Mr. AHMADU said that the draft concluding observations as a whole were too negative. If the State party was not to be deterred from reporting in future, the Committee should insert at least a paragraph expressing its appreciation of the State party's efforts in producing a report under difficult circumstances after so many years. That aspect might also be discussed more generally later in the week.

23. The CHAIRMAN, responding to that comment and taking up a suggestion by Mr. GARVALOV, suggested that a new paragraph be inserted between paragraphs 4 and 5 to read:

> "The Committee warmly appreciates the efforts of the State party to implement the Convention under adverse circumstances."

24. The draft concluding observations concerning the eleventh and twelfth periodic reports of Algeria as a whole, as amended, were adopted.

Draft concluding observations concerning the eleventh periodic report of Mexico (continued) (future CERD/C/304/Add.30)

25. The CHAIRMAN invited the Committee to resume its consideration of the draft concluding observations concerning the periodic report of Mexico.

Paragraph 25

26. The CHAIRMAN recalled that the Committee had encountered difficulties in connection with the reference to large landowners and with the last sentence.

27. Mr. de GOUTTES (Country Rapporteur) said that the simplest solution to the first problem would be to delete the word "large" so that the text addressed all landowners.

28. The last sentence of the paragraph, referring to article 27 of the Constitution, needed to make it clear that the Committee was not satisfied with the reform brought about by the amendment to article 27 adopted by decree of 6 January 1992. He therefore suggested that the sentence should read:

> "The Committee also recommends to the State party that it consider whether article 27 of the Constitution, concerning land rights, amended by decree of 6 January 1992, is in full conformity with the requirements of the Convention."

29. Mr. YUTZIS fully agreed with the proposed amendment concerning article 27. As far as the first part of the paragraph was concerned, the problem was not really solved by omitting the word "large" and the Committee's message might more clearly be conveyed if it were to change the emphasis by first recommending that the State party adopt all measures necessary to avoid

discrimination against indigenous peoples by large landowners and then calling upon the Government to find an equitable means of distribution and restitution.

30. Mr. SHERIFIS suggested that it might be easier to say "all landowners, especially large landowners".

31. Mr. YUTZIS said that the text should lay emphasis on the owners of the large estates, known in Spanish as the "terratenientes" and should not suggest that there was any conflict between the small landowners and the indigenous populations. The problem was the sheer scale of the land which had been conquered and colonized, and taken from the indigenous populations throughout Latin America.

32. Mr. ABOUL-NASR said that the Committee should keep its recommendation to general terms and not enter into complex details of constitutional amendments. The important question was the restitution of land to the indigenous peoples as far as possible.

33. Mr. RECHETOV supported that view. If the Committee went into detail in one case, it might also, for the sake of consistency, have to go into similar detail in respect of countries such as Norway or other European countries.

34. Mr. de GOUTTES (Country Rapporteur) submitted, in response to Mr. Yutzis' concerns, that it was implicitly understood that the large landowners were at the root of land disputes and restitution problems, and that the word "large" could accordingly be omitted. He would not insist on retaining the final sentence.

35. Mr. AHMADU proposed that the paragraph be amended to read as follows:

> "The Committee recommends that the State party find just and equitable solutions to land delimitation, distribution and restitution problems. In this respect everything possible should be done to protect indigenous inhabitants against discrimination."

36. The CHAIRMAN, following a brief discussion in which Mr. YUTZIS, Mr. de GOUTTES, Mr. AHMADU and Mr. GARVALOV took part, said he took it that the Committee wished to adopt paragraph 25, as amended by Mr. Ahmadu.

37. It was so decided.

Paragraph 27

38. Mr. de GOUTTES (Country Rapporteur) said that he was satisfied with the use of the term "bicultural education" and would even accept "intercultural education". He would nonetheless be interested to hear Mr. Diaconu elaborate on his suggestion to use the term "multicultural".

39. Mr. GARVALOV said that he would prefer not to have a reference to article 7 in the paragraph because there was no explicit requirement in that article for States parties to establish bilingual or multicultural education

and the Committee could run the risk of sending the wrong message by including such a reference. The right to education and training was covered under article 5.

40. Mr. DIACONU, supported by Mr. ABOUL-NASR, who cautioned the Committee against going into too much detail in its recommendation, said that the objective in paragraph 27 was to have bilingual education where possible but not necessarily as a consequence of legislation to that effect. The amendment should encompass all cultures because everyone should be educated on all cultures, not just one or two. It was an ambitious goal, in view of which the Committee should allow States parties some flexibility.

41. Mr. de GOUTTES (Country Rapporteur) suggested replacing "bilingual education" with "multicultural education" in order to meet the concerns of Mr. Diaconu and Mr. Aboul-Nasr. He also endorsed Mr. Garvalov's proposal to delete the reference to article 7 of the Convention.

42. The CHAIRMAN pointed out that the intention was to provide also for Spanish-speaking children to receive more education about the customs and practices of indigenous peoples, which could be done if the whole reference to education was abbreviated to "... multicultural education for all".

43. Mr. HUSBANDS (Acting Secretary), at the request of the CHAIRMAN, read out paragraph 27, as amended: "The Committee recommends that the State party make every effort to ensure multicultural education for all."

44. The CHAIRMAN said he would take it that the Committee wished to adopt paragraph 27, as amended.

45. It was so decided.

Paragraph 30

46. In response to a comment by Mr. ABOUL-NASR, the CHAIRMAN said the next periodic report should be referred to as "comprehensive" rather than "detailed".

47. The draft concluding observations concerning the eleventh periodic report of Mexico as a whole, as amended, were adopted.

Draft concluding observations concerning the thirteenth and fourteenth periodic reports of Poland (CERD/C/51/Misc.18, future CERD/C/304/Add.36)

Paragraph 4

48. Mr. ABOUL-NASR said he was worried about introducing the concept of the market economy and economic change into the report. The Committee was dealing with racial discrimination; perhaps it could do without the paragraph.

49. Mr. SHAHI (Country Rapporteur) observed that if the paragraph were deleted, the observations would contain nothing under the heading "factors and difficulties impeding the implementation of the Convention". The

representative of the State party had acknowledged that enjoyment of economic, social and cultural rights had suffered some neglect in view of the economic changes and that the climate had deteriorated in regard to those rights.

50. Mr. GARVALOV said that the situation was not the fault of the market economy as such - and indeed a market economy could not be assumed to be tantamount to a genuine democracy - but of the difficulties experienced by States in transition from a centrally planned to a market economy, and of the adverse effects of that transition on minority groups.

51. The CHAIRMAN concurred with Mr. Aboul-Nasr's view as expressed at previous meetings that the division of the observations into five sections was over-elaborate. However, it should be retained until the Committee's subsequent review of the procedure.

52. Mr. DIACONU said the paragraph was valid for Poland and other countries in the region; if for some countries the Committee referred to the developing situation as a difficulty, for countries in central Europe it should mention the deep economic changes, which were causing difficulties for some segments of the population.

53. Mr. VALENCIA RODRIGUEZ said the representative of Poland had referred to the economic changes taking place there; however, the word "deep" could be deleted.

54. The CHAIRMAN suggested that the word "deep" should be deleted and that, instead of enumerating the rights affected by the economic changes, the text could simply refer to "the rights listed in the Convention".

55. Mr. SHAHI (Country Rapporteur) said that it was Poland that had referred to economic, social and cultural rights; the economic changes did not affect such other rights as the rights of residence or nationality, the right to contract marriage and the right to life.

56. The CHAIRMAN said he would take it that the Committee wished to adopt the paragraph, with the deletion of the word "deep".

Paragraph 5

57. Asked by Mr. ABOUL-NASR whether the new Constitution was applied by the courts, Mr. SHAHI (Country Rapporteur) replied that according to the Polish representative, under the new Constitution the Convention would be directly applicable by the courts. He suggested some minor editorial changes to the first sentence.

58. The CHAIRMAN said he took it that those changes were acceptable.

59. He suggested that the Committee resume its consideration of the draft concluding observations concerning the periodic reports of Poland at a subsequent meeting.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

General recommendation concerning indigenous peoples (continued)
(CERD/C/51/Misc.13/Rev.3)

60. Mr. WOLFRUM informed the Committee that the third revision of the text now before it differed from the previous version only in the briefer wording of the second paragraph. It now incorporated members' suggestions, to which he would add Mr. Diaconu's proposals that "informed consent" be changed to "informed participation" in paragraph 4 (d), and "ensure that indigenous communities" to "ensure conditions so that indigenous communities" in paragraph 4 (e) - neither of which were substantive changes.

61. Mr. de GOUTTES said that he reserved the right to raise any points arising from the future French version of so important a text, now available in English only.

62. Mr. SHERIFIS expressed support for the draft general recommendation as a whole.

Paragraphs 1 and 2

63. The CHAIRMAN, in response to a comment by Mr. DIACONU, pointed to minor drafting changes in the two paragraphs.

Paragraph 3

64. The CHAIRMAN, in response to an amendment proposed by Mr. AHMADU, suggested that the opening lines of paragraph 3 should be amended to read: "The Committee is conscious of the fact that in many regions of the world indigenous peoples have been and are still being discriminated against, deprived of their human rights and fundamental freedoms, and in particular that they have lost their land ...".

Paragraph 4 (a)

65. Mr. AHMADU said that he would raise no objection to the subparagraph but cautioned the Committee against taking the issue of indigenous languages too far because it could result in preventing indigenous peoples from becoming integrated.

Paragraph 4 (d)

66. Mr. ABOUL-NASR said that indigenous people should be on an equal footing with all other citizens and that their consent should be required in all matters, not just those directly relating to them.

67. Mr. WOLFRUM agreed with Mr. Aboul-Nasr and pointed out that the sentence had two different parts, the first dealing with general participation in all aspects of public life and the second narrowing the focus to their consent in matters directly relating to them. He cited the cautionary case of a community in Greenland which had been consulted about the proposed relocation of their village but had eventually had their objection to it overruled and

their village removed. If the sentence addressed only the question of participation on an equal footing, it would not provide for situations in which indigenous peoples might be consulted but still not be required to give their consent before a final decision was taken, sometimes with adverse effect for them.

68. The CHAIRMAN said, in keeping with Mr. Wolfrum's reasoning that the sentence dealt with two separate issues, that if the two parts of the sentence were to be kept separate, then "... public life ..." should be followed by "... and that no decisions are taken directly relevant to them without their informed consent".

69. Mr. DIACONU raised the point that the idea of consent implied the right to veto, which was not in conformity with the spirit of ILO Convention No. 169, which was based, rather, on the idea of consultation through the appropriate channels. In some cases, such as the one cited by Mr. Wolfrum, there was cause to insist on prior consensus but there were many other cases where a small community could hinder the taking of decisions that would be of benefit to all citizens. The Committee should be careful not to innovate in that regard.

70. Mr. AHMADU said that he would welcome the participation and informal consensus of indigenous peoples but did not think that their consent should be required since it implied their right to a veto.

71. Mr. van BOVEN said that due account of the issue had been taken in the drafting of ILO Convention No. 169 and that a compromise solution had been found in the term "consultation", which in fact had not satisfied many indigenous peoples. It was also true, although he had subscribed to that wording, that requiring consent might amount to allowing for a veto. "Informed participation" might be more acceptable as being much stronger than consultation and avoiding the problem that an implied veto might cause.

72. Mr. ABOUL-NASR said that the Committee was faced with a different situation from the one addressed in the ILO Convention and was therefore not bound to use the same wording. In the recommendation there needed to be a distinction between two situations: one concerning all the citizens of a country and another concerning indigenous peoples directly. In the latter case, they should have the right of veto and the text, as drafted, dealt adequately with the issue.

73. Mr. SHAHI said that the paragraph dealt with participation in public life and that a requirement for "informed consent" would give indigenous people too much say in national affairs. He preferred the formulation "active participation" or "active consultation".

74. Mr. WOLFRUM said that the situation of indigenous people was not the same as that of minorities. Indigenous people had occupied the country before the arrival of the majority group, and were often fighting for the very acknowledgment of their existence.

75. The intention of the draft was to ensure that indigenous people were duly involved in decisions which directly affected them, rather than in

national affairs as a whole. He did not like the word "consultation", which did not imply that indigenous people had any actual say in the final decision; nor did he like "informed participation", because the word "participation" was used earlier in the paragraph without qualification. He preferred the original term "consent".

76. Mr. YUTZIS agreed that indigenous people should have more say in matters which affected them directly. In Latin America, in fact, indigenous people were sometimes the majority population in the country, but they were nevertheless often excluded from decisions which affected them. He also preferred the word "consent".

77. Mr. VALENCIA RODRIGUEZ said that it was important to distinguish the first part of the subparagraph, which dealt with public life in general and the participation of all citizens, from the second part, which dealt with decisions directly affecting indigenous people. In the second part of the sentence, he felt that "consent" was the appropriate word to use, or, if that was the preference of the Committee, "participation". In any case, the text under discussion was a general recommendation which did not have the legal implications of a treaty or convention.

78. Mr. DIACONU said that he could foresee complaints from States parties if the Committee appeared to be advocating a right of veto for indigenous peoples over the central Government's decisions. He suggested the following formulation: "ensure that members of indigenous peoples have equal rights in respect of effective and informed participation in public life, in particular when decisions are taken that are directly relevant to them".

79. Mr. AHMADU asked for a specific example of such a decision.

80. Mr. WOLFRUM said that one such example might concern an area of swampland inhabited by indigenous people, which was drained without their being consulted, so that they were forced to change their way of life completely. In many cases, the indigenous people were not the owners of the land, but had used it for generations. It was therefore only fair that they should have some say in the decision. Recent legislation in Australia stipulated that mines could not be sunk in land occupied by the Aborigines without their consent.

81. He did not agree with Mr. Diaconu's proposal. In the first part of the paragraph, it was taken for granted that indigenous peoples had the same rights to participate in public life as any other citizen, and there was no need to plead for special treatment for them there.

82. Mr. GARVALOV said that the two terms "consent" and "participation" meant entirely different things. If indigenous peoples were to give their "consent", they must agree to the proposal; they could "participate" and express their approval or disapproval, without actually having any power over the final decision. He preferred the word "consent".

83. The CHAIRMAN pointed out that the whole of paragraph 4 was phrased as a recommendation to States parties, which they were under no obligation to accept.

84. Mr. SHAHI said that the phrase "decisions directly relevant to them" was too vague.

85. Mr. van BOVEN suggested instead "decisions directly relating to their rights and interests".

86. The CHAIRMAN read out the following amended version of the subparagraph: "ensure that members of indigenous peoples have equal rights in respect of effective participation in public life, and that no decisions directly relating to their rights and interests are taken without their informed consent". He took it that that was acceptable to the Committee.

Paragraph 4 (e)

87. The CHAIRMAN suggested the following amendment: "... that indigenous communities can exercise ...".

Paragraph 5

88. Mr. GARVALOV suggested that the words "more in particular" should be replaced by "furthermore".

89. Mr. RECHETOV said that the word "occupied" had unfortunate connotations and should be deleted.

90. Mr. WOLFRUM suggested the word "inhabited" instead.

91. The CHAIRMAN suggested the wording: "The Committee especially calls upon States parties ...". The first sentence would then continue: "... their lands and territories traditionally owned or otherwise inhabited or used ...".

92. Mr. ABOUL-NASR asked whether the authors of the draft general recommendation had compared the text with other relevant instruments.

93. Mr. WOLFRUM replied that the sponsors had consulted the relevant General Assembly resolutions and the latest draft of the proposed United Nations declaration on the rights of indigenous peoples, although that was still the subject of great controversy. A similar declaration being developed in Latin America was still at a very early stage. He had, however, consulted recent legislation from Argentina, which had been very similar to the draft general recommendation now proposed to the Committee.

Paragraph 6

94. In response to a point raised by Mr. AHMADU, the CHAIRMAN suggested the wording: "The Committee further calls upon States parties ...".

95. The General Recommendation concerning Indigenous Peoples, as amended, was adopted.

96. Mr. de GOUTTES specified that he reserved the right to raise any queries arising from the French version of the text.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 4) (continued)

Situation in the Democratic Republic of the Congo

97. Mr. WOLFRUM (Country Rapporteur) said that most of the information available to him had been drawn from a report to the General Assembly by the joint mission charged with investigating allegations of massacres and other human rights violations occurring in eastern Zaire (now Democratic Republic of the Congo) since September 1996 (A/51/942, dated 2 July 1997). The information in the report should be treated with caution, because the joint investigative mission had not actually visited the country: the report was a preliminary one based on information from the Office of the United Nations High Commissioner for Refugees (UNHCR), non-governmental organizations and people who had recently left - or who claimed to have left - the Democratic Republic of the Congo. The new governing party, the Alliance des forces démocratiques pour la libération du Congo-Zaire (AFDL) disputed some of the report's findings. Moreover, he felt that many of the worst atrocities had been committed before the period covered by the report, which began in September 1996.

98. He had chosen not to use the information contained in the report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Zaire (E/CN.4/1997/6), which was outdated and had been subject to criticism. The Committee should also consider any further information provided by the Secretariat.

99. It was essential to consider not only the situation in the Democratic Republic of the Congo itself, but that of the Great Lakes region as a whole. A number of facts were undisputed. Following the victory of the Rwandan Patriotic Front in Rwanda, some 1.2 million people, most of them Hutus, had fled to Zaire. They included former members of the Rwandan armed forces, the militia known as the Interahamwe and civilians including women, children and old people. Some of them had been accused of genocide of Tutsis and moderate Hutus in Rwanda in 1994.

100. At the beginning of the Zairian conflict in September 1996, some 1.1 million of those refugees were still in refugee camps in Zaire. An estimated 600,000 Rwandans and 100,000 Burundis had returned to their own country, and a further 183,000 Rwandans had been repatriated to Rwanda by UNHCR. Others had fled to other countries, including Tanzania and Zimbabwe.

101. The whereabouts of a large number of refugees remained unknown. The report put the figure at approximately 140,000. However, the latest UNHCR figures indicated that the whereabouts of 200,000 Rwandan refugees and between 20,000 and 40,000 Burundian refugees was not known. An estimated 232,000 refugees from other countries remained in the refugee camps of the Democratic Republic of the Congo, including Angolans, Sudanese and Ugandans.

102. A number of refugee camps had been attacked, including the following: Uvira camp on 22 and 23 October 1996, Shabunda camp in mid-January 1997, Tingi-Tingi and Amisi camps in February 1997 and Mabandaka camp on 13 May 1997. According to the report of the joint investigative mission, almost all the victims had been Hutus.

103. The disputed facts, still drawn from the same report, were that those attacks had been carried out mostly by members of the Alliance and the militia; that blockading of humanitarian assistance to refugee camps had occurred on a large scale; and that that had led to very high mortality rates in the camps. Sanitary and other conditions were bad, and there were reports of cholera and other infectious diseases.

104. The human rights violations were attributed to the Alliance, Zairian civilians under its command or encouragement, Zairian armed forces, the former Rwandan forces and militia, the Rwandan Patriotic Army, the Armed Forces of Burundi, and mercenaries, mostly Serbs, cooperating with the Zairian forces. According to the mission report there were reliable indications that persons belonging to one or other party to the conflict in the eastern part of the country had probably committed serious violations of humanitarian law. The common ethnic identity of most of the victims was a matter of record; they were Zairian Hutus and Hutu refugees from Rwanda and Burundi. The methods used were deliberate, premeditated massacres, the dispersal of refugees to inaccessible, inhospitable areas and the systematic blockade of humanitarian assistance. Of prime importance to the Committee was that all the facts pointed to the conclusion that most of the victims came from one particular ethnic group - the Hutus, whether or not the conflict had an ethnic motivation, or what some called, rather dubiously to his mind in that context, a political motivation.

105. In its recommendation or decision, the Committee should emphasize the need for a new team to be sent to the area, with the participation of a Committee member, to investigate impartially who the victims were and how the incidents had occurred, and express the hope that the authorities of the Democratic Republic of the Congo would keep their promise to help the team fulfil its mandate. The Committee could not do very much before it had received reliable and up-to-date information, which should be forthcoming from the joint mission by the time of the Committee's Spring 1998 session, and he therefore recommended that it should keep the issue on the agenda for that session, at which time it would be in a position to take a decision on the basis of that information.

106. Mr. ABOUL-NASR said the Committee could not pronounce itself at the present stage, as it needed more information, and should accept Mr. Wolfrum's recommendation.

107. Mr. de GOUTTES said that no one could reproach the Committee for having failed to anticipate the gravity of the situation and the possible aggravation of tensions. Everything it had feared had in fact come to pass. The report of the joint mission was overwhelming. In addition to the serious human rights violations referred to Mr. Wolfrum, it mentioned grave violations of international humanitarian law and perhaps genocide and crimes against humanity. The Committee should focus on the joint mission's recommendations, drawing particular attention to them in its statement; indeed, it could almost adopt them as its own. He favoured keeping the issue on the Committee's agenda at the next session as a matter of urgency and asking a representative of the Secretariat to address the Committee with any additional, more recent information.

108. Mr. van BOVEN said the modest action recommended by his colleagues seemed very wise. The Committee's preventive role was always a limited one, but at least it had expressed its serious concerns about the situation in 1996.

109. The CHAIRMAN said that Mr. Mautner-Markhof (Office of the High Commissioner for Human Rights/Centre for Human Rights) had been to the eastern part of the Democratic Republic of the Congo recently and was available to address the Committee; the representative of the Democratic Republic of the Congo could attend the meeting on 19 August.

110. Mr. SHAHI said the Committee could not reach any conclusions until it had considered a more definitive report on the findings of the joint mission. While awaiting such a report, it might consider taking up some of the mission's recommendations. The mission had reserved its opinion on genocide, but apparently enough evidence existed for it to pronounce itself on the commission of crimes against humanity under article 3 of the Geneva Conventions. Other recommendations of the mission that warranted consideration by the Committee were the immediate dispatch of troops to areas lacking in security; ensuring the cooperation of the Democratic Republic of the Congo Government in investigating the human rights violations; and waiving statutory limitations until the perpetrators of the violations could be identified. The Committee should hear what the representatives of the Democratic Republic of the Congo and the Secretariat had to say and then discuss the matter in private.

111. The CHAIRMAN said the Bureau had felt the Committee would not be able to do much until it had better information, for which it needed the report of the investigating mission.

112. Mr. ABOUL-NASR suggested that the Committee should ask Mr. Wolfrum to draft a short statement referring to the Committee's 1996 decision, stating that it had studied the reports available, referring to the Secretary-General's decision to dispatch a new mission of three, expressing consternation at the alarming news, and noting that the Committee would keep the matter under consideration and take it up as a matter of urgency at its next session. Neither the representative of the State party nor the representative of the Secretariat could add much to the Committee's knowledge at the present time; what mattered was to have on record that the Committee had examined the situation.

113. The Committee decided to ask Mr. Wolfrum to draft a statement along the lines proposed by Mr. Aboul-Nasr.

The meeting rose at 1 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1236th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 18 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

Draft statement on Israel

Draft statement on Bosnia and Herzegovina

This record is subject to correction.

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.97-18026 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Sixth to eleventh periodic reports of Burkina Faso (CERD/C/279/Add.2; HRI/CORE/1/Add.30)

1. At the invitation of the Chairman, Mr. Somda, Mrs. Zanga and Mr. Kam (Burkina Faso) took places at the Committee table.

2. Mr. SOMDA said the reason that so much time had elapsed since, in 1984, Burkina Faso had presented its previous periodic report on the implementation of the Convention was the state of emergency and, more generally, the development problems the country had faced since gaining independence in 1960. The upshot of the first three republics and the state of emergency had not been positive; in 1989, however, the authorities had begun a slow but irresistible advance towards the establishment of a democratic State ruled by law, as the inhabitants of the country wanted. The process had culminated in the adoption of the Constitution of 2 June 1991, the presidential election on 1 December 1991 and the legislative elections on 24 May 1992, which had given birth to the Fourth Republic. Once the institutional foundations had been laid, Burkina Faso had applied itself to buttressing the democratic process in order to ensure that it advanced in a setting that favoured the promotion and protection of human rights, taking as its starting point the principle that respect for human rights was essential to development. Efforts to promote human rights and, especially, eliminate of all forms of racial discrimination were now in full swing.

3. As regards population, the demographic composition of Burkina Faso had changed very little. The information appearing in the 1985 report remained valid except the fact that the country now had 10,373,651 inhabitants. The "joking" relatives system was an efficient social device that helped to ease tensions and imbalances between different ethnic groups.

4. To promote national languages, the Government had embarked on a programme which included literacy training for population groups and broadcasts in local languages. Satellite schools and informal education centres had been set up to provide primary education in national languages, and there were plans to increase broadcast television programming in national languages other than the three main ones.

5. As part of its move towards decentralization, which it regarded as a means of promoting and developing grass-roots democracy, the Government had restructured the country, formerly divided into 45 provinces, into 33 fully-fledged communities. A number of laws had been passed setting up a legal framework and institutions. For example, an act of 1993 allocated resources among the various geographical communities according to demographic, economic and political criteria.

6. Following the 1997 legislative elections, in which 13 political parties had taken part, the ruling party, the Congress for Democracy and Progress, had won 101 parliamentary seats; three other political groupings had together won nine.

7. Under Act No. 002/97/ADP dated 27 January 1997, amending the Constitution, all international human rights instruments ratified by Burkina Faso were in force in the country and served as a starting point for the executive and legislature to pass laws on human rights questions. Article 5 of the Penal Code stated that the international instruments concerned could be invoked before the courts and took precedence of domestic legislation. By contrast, bilateral treaties could be invoked only if reciprocal arrangements were in force.

8. Act No. 10/90/ADP/1992, on freedom of association, allowed associations to be formed freely, but discriminatory associations were nevertheless banned. The Framework Law on Education (No. 103/96/ADP) stipulated that every citizen had a right to education without discrimination based on sex, social origins or religion. Under Act No. 43/96/ADP of 30 November 1996, any act of racial discrimination was a penal offence punishable by imprisonment and banishment; the definition of racial discrimination used was that given in article 1 of the Convention.

9. As regards the judiciary, a number of laws had been passed to re-establish its authority and the independence of the courts and magistrates, and to provide remedies for those brought to justice. The new Penal Code (Act dated 30 November 1996) modified the country's penal provisions to suit the current socio-economic situation in Burkina Faso.

10. Updating the information given in paragraphs 17 to 21 of the previous periodic report, he said that the penal law of 31 August 1959 had been superseded by an act of 30 November 1996 which raised the fines imposable on those guilty of the crimes defined in paragraph 17 to a minimum of 50,000 and a maximum of 300,000 CFA francs. The acts referred to in paragraph 19 were now punishable by between 5 and 10 years' imprisonment if the guilty party was an ordinary citizen, or 10 to 20 years' imprisonment in the case of a minister. The punishment for judges and magistrates laid down in paragraph 20 was between 1 and 5 years' imprisonment. The law now provided that judges must dispense justice, on pain of a fine of between 50,000 and 300,000 CFA francs. Administrative or judicial police officials who, being aware of any case of illegal or arbitrary detention, wherever it might be, declined to put an end to it (para. 21) would be sentenced to terms of detention and financial penalties. The fine for officials at places of detention who admitted prisoners without a warrant or judicial decision had been raised to a minimum of 50,000 and a maximum of 600,000 CFA francs.

11. As regards administrative measures, the Ombudsman established by the organizational act dated 17 May 1994 could act with complete independence within his terms of reference. Paragraph 22 of the report needed correction: the Ombudsman received complaints concerning the administrative functioning of the State, the geographical communities, public institutions and any other bodies rendering a public service. In practice, the Ombudsman had been impelled to intervene in social conflicts.

12. The Government encouraged the activities of non-governmental organizations concerned with human rights, and the creation of administrative bodies bringing together representatives of the administration, non-governmental organizations and public organizations in order to protect and promote human rights. In 1993 it had set up a national committee to combat discrimination in all its forms, and another to apply the Beijing recommendations. It had also launched an operation known as "One thousand girls" to provide girls with an education and some modest resources for embarking on income-generating handicraft activities. It had taken steps to reduce the imbalance between school attendance rates for boys and girls, in part by setting up a service under the Ministry of Mass Literacy and Basic Education to promote female education. The service had set a quota of 50 per cent for girls and boys attending primary schooling establishments in the 11 provinces where female school enrolment rates were particularly low, and provided those concerned with school supplies and additional food rations.

13. Despite difficult conditions, the human rights situation was developing favourably in Burkina Faso, where rights were protected not only by the State, under the Constitution and legislation, but also by non-governmental organizations and human rights organizations. The assertion of human rights was a long-term undertaking: if it was to succeed, anything that might heighten tension or confrontation between communities must be avoided. As a result, such activities were immediately suppressed. Burkina Faso counted on its partners in development, non-governmental organizations, human rights institutions and the international community to help it tackle its development problems which were the principal obstacles to the attainment of its human rights goals.

14. Mr. DIACONU (Country Rapporteur) hailed the resumption of dialogue with Burkina Faso, the "country of honest people", whose fifth report had been considered in 1985 and whose core document had been submitted in 1993. He was pleased that so large a delegation had come to introduce a report from a country with no diplomatic mission in Geneva: it indicated the country's desire for dialogue with the Committee and the importance it attached to implementation of the Convention. Another indication of that desire came in the fact that Burkina Faso had replied to the written questions sent it. He thanked Mrs. Konate, the Ambassador of Burkina Faso to Denmark, who had made available to him every document on Burkina Faso she had been able to assemble.

15. Burkina Faso was undergoing changes similar to those that had taken place almost everywhere in Africa during the 1990s. Under the 1991 Constitution, racial discrimination of any kind, particularly based on race, ethnicity, region, colour, sex, language, religion, caste, political opinion, wealth and birth, was prohibited. The Constitution was based on a pluralist concept; 13 political groups had taken part in the legislative elections in May 1997, and 4 political parties were represented in the new Parliament. Given that there had been seven political parties represented in the former Government, formed after the 1993 elections, he would like to know whether more than one party was represented in the current Government.

16. Burkinabe legislation showed that the country had a clear policy of developing human rights to the benefit of the entire population, as indicated by a determination to combat all forms of discrimination including racial

discrimination. In order to be able to assess the implementation of the Convention, however, the Committee would like more up-to-date and extensive information on the ethnic composition of the population. The 1983 report stated that the population was composed of 68 per cent animists and 27.5 per cent Muslims. The report now under consideration said that the population comprised 53 per cent Muslims and 26 per cent animists. Could the delegation explain the reason for that reversal in the percentages?

17. The report contained no information on article 3 of the Convention. As for article 4, the information provided orally by the Burkina Faso delegation, namely that the Act dated 13 November 1996 amending the Penal Code made any act of racial discrimination a penal offence, was of considerable importance. It was to be noted that the definition of racial discrimination used in the country's legislation was identical to that used in article 1 of the Convention. The delegation should tell the Committee whether the 1959 laws permitting the Council of Ministers to dissolve associations that fomented racial, regional or religious hatred were still in effect. Since regionally and tribally based organizations were banned, he wondered whether, among the four parties represented in the Parliament and the parties that had taken part in the elections, there were any with a majority of members from the same region. He would also like to know in what sense the terms "regionalism" and "tribalism" were used, and whether there was a link between those concepts and racial discrimination. In the fullness of time, he believed, the Committee might advise Burkina Faso to revise its domestic legislation in order to give full effect to article 4 of the Convention banning organizations that spread racist propaganda or incited racial violence.

18. A number of non-governmental organizations had reported expulsions of Cameroonian and Chadian students with refugee status from Burkina Faso; he asked the delegation to provide information on those matters.

19. As regards article 5, he pointed out that, according to the report, a number of articles in the Constitution prohibited discrimination based on colour, religion, social origins, ethnic group or political opinions in various areas. Article 19 prohibited any discrimination in employment and remuneration based on such grounds, and article 23 likewise banned discrimination in marriage. Act No. 13 prohibited such discrimination in education. It would be helpful to the Committee to know whether there were provisions banning racial discrimination in other areas covered by article 5, and what steps Burkina Faso was taking to give effect to them. Why was there such a disproportion between the resources voted in the 1997 budget to three regions - the centre, Boucles de Mouhoun and Hauts-Bassins - and the populations of the regions concerned? The report provided no information on how different ethnic groups participated in the political life of the country or how they were represented in Parliament and the Government. Could the delegation provide information on those matters?

20. He would like to know whether use had been made of the legal remedies against decisions by the authorities mentioned in paragraphs 13 to 23 of the current report.

21. Noting with satisfaction that the Government's seven-year programme called for the promotion of a rich, dynamic culture based on exchanges among

communities, he asked whether the Government was equally determined to foster a spirit of tolerance, friendship and respect among ethnic groups in schools and in society, and if there were cultural associations engaging nationally in activities to that end. One of the resolutions adopted during the National Colloquium on Basic Education held in Burkina Faso in 1993 called for action to promote the use, in particular in writing, of national languages other than French and their use on radio and television. That was an initiative to be applauded.

22. Framework legislation and laws on decentralization had been passed in 1993, setting up autonomous administrative structures at the local level. Such moves should be encouraged. As regards the Mediator established in 1994, he would like information on what the Mediator had set out to do and what he had accomplished. Lastly, he noted with satisfaction that under article 151 of the Constitution, international instruments ratified by Burkina Faso, including the Convention, took precedence of domestic legislation.

23. Mr. VALENCIA RODRIGUEZ noted with satisfaction that the principles set forth in the Convention were the subject of broadcasts and televised debate in Burkina Faso, that efforts were being made to develop local-level administration, and that the country was making progress towards democracy by emphasizing respect for human rights. He hoped that Burkina Faso would continue in that direction. He welcomed the fact that the first article of the Constitution prohibited discrimination in any form and that article 18 of the Constitution acknowledged that education, instruction, training, work, social security, housing and health were social and cultural rights. He also noted that the Convention took precedence of national laws and regulations, and asked for information on any cases in which the Convention had been directly invoked before the courts.

24. He had taken note of the information on how the justice system functioned and the powers of the judiciary as regards respect for and the promotion of human rights. He hailed the fact that the Mediator was an independent official, and asked for additional information on what the Mediator did in matters of relevance to the Convention. Lastly, he expressed the hope that the Government would in its next report follow the Committee's guidelines on the format and content of reports.

25. Mr. de GOUTTES hailed the resumption of dialogue between Burkina Faso and the Committee, but commented that the report under consideration was too general and of greater interest to the Human Rights Committee than the Committee on the Elimination of Racial Discrimination. Referring to article 13 of the Constitution, which prohibited tribalist, regionalist, denominational or racist political parties or groupings, he asked whether the ban also extended to parties based on ethnic exclusiveness.

26. He would like to see a summary of the activities of the Mediator, insofar as that was possible, and wondered whether there were plans to establish a national human rights committee in Burkina Faso.

27. As regards the application of article 4 of the Convention, he enjoined the Government to provide in its next report the text of the revised Criminal Code that made any act of racism a criminal offence. He would also like statistics on complaints lodged, prosecutions brought and judgements handed down in connection with acts of racism.

28. Mrs. SADIQ ALI wanted to know how many exiles had returned to Burkina Faso under the policy of national reconciliation. On 24 December 1991, 4,000 people previously convicted for political or trade union activities had been rehabilitated: that was commendable. In July 1994, Burkina Faso and Mali had reached agreement on the repatriation of Malians in Burkina Faso. She would like more information on that subject.

29. What steps had the Government taken to encourage the written use of native languages such as Mossi and make them more accessible? She would like information on the activities of the Mouvement pour les droits de l'homme et les droits des peuples, a local non-governmental organization. Last, she called for more extensive information on the application of article 7 of the Convention.

30. Mrs. ZOU noted with satisfaction that in recent years the Government had taken a number of steps to promote human rights. She was sorry that the most recent report was less extensive than the one submitted in 1984, and that the Committee's guidelines on the form and content of reports had not been followed.

31. She would like to know more about the relations between the various ethnic groups living in Burkina Faso. What policy did the Government pursue? She noted with satisfaction that the Act of 13 November 1996 punished acts of racial discrimination, and asked for more details of what the Act said. Had anybody been sentenced under it? She would like to know the status of languages other than French in the education system. She also asked for more information on unemployment levels among the various ethnic groups. Lastly, in reference to the steps to promote the status of women mentioned in the report, she asked what the marriageable age in Burkina Faso was.

32. Mr. AHMADU emphasized that Burkina Faso was one of the rare countries in Africa where the rights set forth in article 4 of the Convention were guaranteed. What was more, Burkina Faso had taken steps to eliminate discrimination against ethnic groups and minorities. He would like to know the position of the Mossi king on the Convention, and what had resulted from the meeting between politicians from a number of countries in the region on the situation of Touareg exiles.

33. He pointed out that the report was not laid out according to the Committee's guidelines. The Government might like to seek secretariat assistance with its next report.

34. The CHAIRMAN invited the delegation of Burkina Faso to reply to the Committee's questions at the following meeting.

35. The delegation of Burkina Faso withdrew.

Draft concluding observations of the Committee on the thirteenth and fourteenth periodic reports of Poland (distributed at the meeting, in English only: CERD/C/51/Misc.18 - future CERD/C/304/Add.36 - future CERD/51/CRP.1/Add.15) (continued)

36. The CHAIRMAN invited the Committee to resume consideration of its draft concluding observations on Poland.

Paragraph 9

37. Mr. GARVALOV asked whether it was to be understood that in theory the International Convention on the Elimination of All Forms of Racial Discrimination applied directly under Polish domestic law.

38. Mr. SHAHI confirmed that that was so.

39. Paragraph 9 was adopted.

Paragraph 10

40. Paragraph 10 was adopted.

Paragraph 11

41. The CHAIRMAN drew attention to a typing error in the first line, which should read "... to declare illegal and to prohibit ...".

42. Paragraph 11 was adopted subject to the drafting change.

43. Mr. ABOUL-NASR asked whether the matter at issue was indeed a subject of concern to the Committee. Could States be held to be in contravention of the Convention if their constitutions forbade them to gather demographic statistics on minorities?

44. Mr. SHAHI remarked that the proposed wording of paragraph 12 was particularly conciliatory compared to what the Committee had adopted on other occasions, besides which the Committee had not received a clear response from the Polish delegation.

45. The CHAIRMAN said that the wording proposed in the guidelines on the form and content of reports was less critical still.

46. Mr. GARVALOV asked whether the Committee could not use in paragraph 12 the wording used in the guidelines.

47. Mr. DIACONU said that paragraph 12 should be adopted as it stood.

48. The CHAIRMAN invited the Committee to consider paragraph 12 in the light of paragraph 17, which dealt with the same matter. He suggested that paragraph 17 should be retained and paragraph 12 dropped.

49. It was so decided.

Paragraph 13

50. Mr. ABOUL-NASR said he thought that the transition to a market economy affected the entire population, not just minorities.

51. Mr. SHAHI said that that had been the gist of the Polish delegation's statement. The point was to signal the difficulties attendant on transition from a centralized, totalitarian to a capitalist, i.e. market, economy.

52. The CHAIRMAN suggested that the words "to a free market" at the end of the paragraph should be deleted.

53. It was so decided.

54. Paragraph 13 was adopted as amended.

Paragraph 14

55. The CHAIRMAN wondered whether the expression "mother tongue" might not be preferable to "own language".

56. Mr. SHAHI said that the latter expression was the one that had been used in the report of Poland.

57. Paragraph 14 was adopted.

Paragraphs 15 and 16

58. Paragraphs 15 and 16 were adopted.

Paragraph 17

59. The CHAIRMAN wondered whether in the second line the words "to supply" might not be preferable to "to compile".

60. Mr. GARVALOV pointed out that the topic under consideration was the collection of demographic data in general, not merely those supplied to the Committee. In his view, therefore, the current wording was more correct.

61. Paragraph 17 was adopted.

Paragraph 18

62. The CHAIRMAN pointed out that the word "it" needed to be inserted in the third line before the word "include".

63. Paragraph 18 was adopted subject to the drafting change.

Paragraphs 19 to 23

64. Paragraphs 19 to 23 were adopted.

65. The draft concluding observations of the Committee on the thirteenth and fourteenth periodic reports of Poland were adopted, as orally amended.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 4) (continued)

Draft statement on Israel (distributed at the meeting, in English only: CERD/C/51/Misc.30/Rev.1)

66. Mr. van BOVEN reminded the Committee that his initial draft of the statement had been distributed the previous week. It had been revised to take account of Committee members' comments. Broadly speaking, it repeated what had been said in earlier statements, but was a little more explicit on the agreements between Israel and the PLO (para. 1), in condemning terrorist groups pursuant to article 4 of the Convention (para. 3), and on the notion of collective punishments, which were banned under article 33 of the Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons in Time of War (paras. 4 and 5).

67. The CHAIRMAN invited the Committee to consider the document paragraph by paragraph.

68. It was so decided.

Paragraph 1

69. Paragraph 1 was adopted.

Paragraph 2

70. Mr. GARVALOV was not certain whether it was the Committee's business to voice concern over changes in the physical character of the occupied territories, and asked whether the words might be deleted.

71. Mr. ABOUL-NASR wished the words to be retained, emphasizing that when houses were destroyed or confiscated and when roads were built, the physical character of the occupied territories was indeed changed.

72. Mr. WOLFRUM said that "and other settlement projects" should be added after the reference to Jabal Abu Ghenaim, since to his knowledge there were others.

73. Mr. SHAHI said that, although not the only one, Jabal Abu Ghenaim deserved to be mentioned since it was the one that had led to the interruption of the peace process.

74. Mr. RECHETOV said he would prefer to use the term "physical character".

75. Mr. YUTZIS thought that the wording "que cambian el espacio geográfico y urbano y la composición social y demográfica" could be used instead, but would not insist on his suggestion.

76. Mr. ABOUL-NASR pointed out that the expression "physical character" was often used in United Nations resolutions, and its meaning was clear. He would prefer the term to be retained.

77. Mr. van BOVEN said that he, too, would like to see the term retained.

78. Paragraph 2 was adopted.

Paragraph 3

79. Mr. RECHETOV said that the first sentence should express the Committee's condemnation of "terrorism in all its forms", because terrorism could also be committed by regular forces in the service of the State.

80. After a discussion on the point, and on whether it was appropriate to emphasize that the Committee condemned all the more strongly acts of terrorism which indiscriminately cost innocent people their lives, in which Mr. RECHETOV, Mr. ABOUL-NASR, Mr. GARLAVOV, Mr. van BOVEN, Mr. de GOUTTES, Mr. WOLFRUM, Mr. YUTZIS, Mr. AHMADU and Mr. SHAHI took part, the CHAIRMAN suggested that the first sentence should be amended to make two, reading as follows: "The Committee again condemns in the strongest terms terrorism in all its forms. It abhors acts which result in the indiscriminate killing of innocent people and reiterates ...".

81. It was so decided.

82. Paragraph 3 was adopted as amended.

Paragraphs 4 and 5

83. Mr. SHAHI, drawing attention to the expression "related measures" in the first line of paragraph 4, suggested that the text should say what was actually meant: withholding - as the last sentence said - from the Palestinian authority the taxes, levies and customs duties that were its by right and that it needed. If the Committee condemned terrorism, it should also insist that the Palestinian authority must have the wherewithal to carry out its functions.

84. Mr. van BOVEN said that Mr. Shahi's point was an argument in favour of merging paragraphs 4 and 5, which would have the advantage of heightening the Committee's urgent call for the actions referred to in paragraph 4 to end.

85. Mr. ABOUL-NASR suggested incorporating the first sentence of paragraph 5 into paragraph 4 but keeping the rest of paragraph 5 separate, so that it was clear that the Committee was explicitly urging the Israeli Government to lift the sanctions in question. The last paragraph would thus begin: "The Committee holds that ...".

86. Mr. AHMADU asked whether it was really necessary to specify the "Arab" population in the second line of paragraph 5, since it was the Arab population that lived in the occupied territories.

87. Mr. van BOVEN said the distinction was important because there were also Jewish settlements in the occupied territories which were not subjected to the measures imposed on the Palestinians. There was thus discrimination against one particular group in the territories.

88. The CHAIRMAN suggested that the second sentence of paragraph 5 should be improved by replacing "amounting" with "amount" and adding "and" after "punishment".

89. Paragraphs 4 and 5 were adopted with the amendments proposed by Mr. Shahi, Mr. van Boven, Mr. Aboul-Nasr and the Chairman.

Paragraph 6

90. Mr. ABOUL-NASR, supported by Mr. AHMADU, suggested adding the words "the continuation of" after the word "welcomes", to indicate the Committee's desire that the dialogue should continue.

91. Paragraph 6 was adopted as amended.

92. The draft declaration on Israel was adopted as orally amended.

Draft statement on Bosnia and Herzegovina (distributed at the meeting, in English only: CERD/C/51/Misc.37)

93. The CHAIRMAN invited the Committee to examine the text paragraph by paragraph.

Paragraph 1

94. Mr. WOLFRUM pointed out that the proper name of the Committee was "The Committee on the Elimination of Racial Discrimination".

95. Paragraph 1 was adopted subject to the drafting change.

Paragraph 2

96. Mr. GARVALOV suggested that "contrary to" on the penultimate line should be preceded by "which is".

97. Mr. DIACONU felt that the word "borders", which conveyed a specific notion in international law, might be out of place in the setting of Bosnia and Herzegovina.

98. Mr. WOLFRUM thought that "internal borders" might suit, but it would be best to see what expression had been used in the annex to the Dayton Agreement.

99. Paragraph 2 was adopted as amended, on the understanding that the expression used in the Dayton Agreement to refer to internal boundaries would be duly checked.

Paragraph 3

100. Mr. WOLFRUM said that the expression "both entities" suggested that there were only two entities in Bosnia and Herzegovina.

101. Mr. van BOVEN agreed that it would be preferable to speak of the "two main entities".

102. Paragraph 3 was adopted as amended.

Paragraph 4

103. The CHAIRMAN suggested replacing "is made" in the first line by "is being made".

104. Mr. ABOUL-NASR asked whether the parties' obligations under the Agreement, as referred to in the second sentence, were also obligations on countries maintaining a military presence.

105. Mr. van BOVEN said that only the parties to the Agreement were concerned, among them the Republika Srpska.

106. Paragraph 4 was adopted as corrected by the Chairman.

Paragraph 5

107. Paragraph 5 was adopted.

108. Mr. YUTZIS said he had gone along with the general opinion but wished to state, as he had several times before, that the reference to the Dayton Agreement seemed to him to be out of place because that Agreement was partly to blame for the problem.

109. The draft statement on Bosnia and Herzegovina was adopted as orally amended.

The meeting rose at 6 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1237th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 19 August 1997, at 10 a.m.

Chairman: Mr. BANTON

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* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1237/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.97-18018 (E)

The public part of the meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Sixth to eleventh periodic reports of Burkina Faso (continued) (CERD/C/279/Add.2, HRI/CORE/1/Add.30)

1. At the invitation of the Chairman, the members of the delegation of Burkina Faso resumed their places at the Committee table.

2. Mr. SOMDA (Burkina Faso) said that not all his answers to the Committee's questions would be very detailed for the time being as some information, such as statistics and assessment reports, was not yet available; it would, however, be included in the next report. In Burkina Faso the ground was still being laid for the implementation of human rights conventions, which meant that assessment of progress in that area would be available only in subsequent reports. Further, the country was in a transition phase insofar as it had instituted the rule of law and its first legislature, which had adopted laws, but their implementation had still to be evaluated. Steps had been taken in certain areas, such as education, and the next report would focus on results in that and other specific areas in which legislative measures had been adopted.

3. In reply to the request for a demographic breakdown, he acknowledged that the data provided in the present report had been carried over from the previous report submitted in 1984. Nevertheless, the Government's policy was to promote a multiracial society in which the 60 or so different ethnic groups could enjoy their freedom, under article 7 of the Constitution, to practise their customs. To that end, a National Week of Culture in which all the various communities participated had been instituted as a means of interaction and blending of cultures. Regional fairs were also organized in an effort to promote understanding between the various ethnic groups in each region.

4. On the whole, Burkina Faso had not experienced many problems of racial discrimination thus far and the concept of racial superiority was not part of the national psyche. The differences between ethnic groups were easily overcome and a common bond found by means of a social practice known as parenté à plaisanteries, which was based on acceptance and mutual respect demonstrated through a give-and-take of pleasantries and good-natured jest.

5. Demographic data available from a census conducted in early 1997, to be further updated in the next report, showed that the population was composed of, inter alia, 48 per cent Mossi, 7 per cent Lobi-Dagara, 6.9 per cent Mande, 6.7 per cent Bobo, 5.4 per cent Senufo, 5.3 per cent Grunshi, 4.7 per cent Bissa, 4.5 per cent Gourmanché.

6. Likewise, the information on religious affiliation had been carried forward from the previous report. Subject to correction in the next report, the breakdown was 67.8 per cent animists, 27.5 per cent Muslims, 3.7 per cent Catholic, 0.1 per cent Protestant. There was a tradition of tolerance between the various groups and no segregation between them. Religious festivals were celebrated by entire communities without distinction as to faith. Christmas

and Ramadan, for example, were celebrated by all - practices which the Government was keen on preserving because they were a means to combat intolerance and discrimination.

7. Turning to the question of national languages, he said that programmes, such as "operation Zanu", were under way to promote national languages as well as literacy and numeracy in such languages. The electronic media were among the means used to teach people how to read, write and count in their local languages and all national languages were given air time on radio, for example through a programme entitled "l'arbre a palabre", during which tales were told in all the languages. There would be more television programmes in national languages as more and more languages were phonetically transcribed.

8. With respect to the provisions of article 4 of the Convention, he said that it had not been considered necessary by legislators to provide for specific legal provisions to deal with possible violations because the inhabitants of the country did not entertain notions of ethnic superiority. However, in keeping with the principle of equality between citizens, the Constitution proscribed all forms of discrimination as well as associations which advocated such practices. He addressed specifically the question posed about the Council of Ministers, recalling the rule of law and the separation of powers in Burkina Faso, pursuant to which the Council was no longer authorized to dissolve associations. Such powers had devolved to the Ministry of Territorial Administration and there was a law which regulated the establishment of associations and by the same token proscribed the creation of associations which practised discrimination.

9. There were recognized associations formed by and for foreigners, for example on the university campus. In such cases, the Ministry of Territorial Administration sought the advice of the Ministry of Foreign Affairs and to that extent conformity with international conventions was duly assured. Specifically on the question of the expulsion of two students in December 1996, he said that at the time there had been a serious crisis on the campus which had in fact subsequently been resolved through the good offices of the Mediator. The case was to be seen in context. There were large numbers of foreign students in the country, particularly from neighbouring countries, each nationality being represented by an association in accordance with the Act on freedom of association. There were also many refugees from Central Africa. Disturbances of the kind caused by the students in question, especially when they were based on ethnic considerations, echoing certain attitudes existent in the students' countries of origin, were unacceptable. The two students had been charged with breach of the peace and deported. By the same token, any organization which disseminated propaganda promoting ethnic or any other kind of division would be disbanded and the perpetrators brought to book.

10. It was not yet possible to give an assessment of the performance of recently established institutions, like the Office of the Mediator, and the implementation of the new Criminal Code, which had been adopted after the submission of the report. Similarly, no statistics were yet available on cases of racial discrimination brought before the courts but he pointed out that in the history of the country such cases were rare, and disputes were usually resolved through the parenté à plaisanteries system.

11. Exiles were free to return to Burkina Faso now that the political and other reasons which had prompted them to leave no longer existed. More had returned as recently as June 1997 and he cited the case of the former legal adviser to the late President, Thomas Sankara, who was about to be admitted to the Bar. Those who remained outside the country did so voluntarily. Freedom of expression and opinion were guaranteed, there were no political prisoners and no one could rightly claim that the authorities hindered their return to Burkina Faso.

12. Turning to the question of refugees, he said that there was tripartite communication between the Government of Burkina Faso, the Government of Mali and the Office of the United Nations High Commissioner for Refugees (UNHCR). A programme for the voluntary return of the refugees was under way and a permanent secretariat had been created within the Ministry of Foreign Affairs, which took part in the processing of refugees of all origins and the granting of refugee status in observance of international norms in consultation with UNHCR.

13. Regarding the Malian refugees in particular, there were at least 50,000 of them, who were now returning voluntarily with the assistance of UNHCR. There was ongoing dialogue with them and they were being encouraged to return. Field visits were also organized to further dialogue between the refugees and all the other parties concerned.

14. Responding to the question about representation of ethnic minorities within the Government, he said that the multi-party system had given way since 1995-1996 to a series of mergers between the various parties. The party now in power, composed only of members of the Congrès pour la Democratie et le Progrès (CDP), was in fact a coalition, as were the other main political parties represented in the Assembly. Representation of a wide cross-section of the population was thus assured. Moreover, the parties, like the ethnic groups, had countrywide presence, which was the key to their success, so there were no political strongholds to speak of.

15. Marriage was regulated by the Personal and Family Code, under which men had to be over 20 and women over 17 years of age before they could marry. Exemptions from that provision could be granted by the civil courts in response to petitions on serious grounds, but were not available to men under 18 and women under 15 years of age. Minors wishing to marry needed the consent of their parents or guardians.

16. Customary chiefs were taken into consideration in the State's endeavour to build a stable society. Their power and authority were valuable in the State's nation-building efforts and were once again fully recognized. Parliament consisted of two chambers, the elected National Assembly and the Chamber of Representatives, which comprised representatives of all sectors of civil society, including traditional chiefs, NGOs and religious groups. Their opinion was sought on bills tabled in the Assembly.

17. Human rights groups were allowed to carry out their activities freely and their advice was sought on some legal provisions. With a view to implementing international human rights instruments, the Government had organized meetings with the human rights organizations and taken their advice and opinions into account in their decision-making.

18. In answer to a query about the closing of trade unions and dismissal of trade unionists, he said that whenever there was a social crisis, all members of society were called upon to play their part in solving the crisis. The Government had withdrawn the decision in question, without making any arrests, and had since renewed dialogue and established a timetable for negotiations with the trade unions. It was hoped that the dialogue would bear fruit soon.

19. In conclusion, he said that Burkina Faso needed the support of the international community and human rights NGOs in its ongoing process of implementation and evaluation with a view to building a society that offered a better way of life. Fortunately, the subregion of which Burkina Faso was a part was acknowledged as socially stable compared to other regions. He hoped that the dialogue with the Committee would continue so that the Committee would be apprised of Burkina Faso's efforts and be able to contribute to them.

20. Mrs. SADIQ ALI asked what was being done to teach in the various dialects. If the dialects were transcribed, which alphabet was used and which programmes, if any, were under way to transcribe the dialects and teach them to the children.

21. Mr. SOMDA (Burkina Faso) recalled his earlier reference to the policy of transcribing the different languages. Thus far, there were alphabets for the Dagara, Fulfuldé, Moré and Gourmanche languages. The French language had been used as the basis at the outset of the transcription process. The Catholic clergy had facilitated the transcription work, as had the Koranic schools. The focus was on building literacy through education in the local languages and to that end there was a policy in place to transcribe all the languages in collaboration with UNESCO and the university. French, however, was still the official language. Once transcribed, the languages would be the medium for television programmes to enable people to follow the lessons in their respective languages based on their own alphabets. He would be happy to provide more information on the programme in the next report.

22. Mr. DIACONU welcomed the responses to the Committee's questions and Burkina Faso's commitment to further dialogue with the Committee. The Committee's role was to provide every support to States parties in the uniform and universal implementation of the Convention and, in the specific case of Burkina Faso, help it to build a multicultural society free from racial discrimination, which the Government seemed set to achieve.

23. Very important laws had been adopted by the Government of Burkina Faso and it was time to review them, remove any loopholes, supplement them and ensure their full conformity with human rights instruments. He stressed the binding nature of article 4 which required States parties to adopt specific laws designed to prohibit the acts described in the article and punish the perpetrators. Article 4 had a preventive role and was aimed at both groups and individuals. Even if there were no manifest trends of racist propaganda or racial discrimination, the Convention required that laws should be adopted because the implementation of article 4 was not automatic.

24. He requested clarification of the provisions of the 1992 law on associations. What were the actual provisions in the law to prevent associations with discriminatory practices and what steps were taken by the authorities to prohibit them?

25. What was now needed was to pursue the implementation of existing legislation and to ensure the proper functioning of the judicial, legislative and executive institutions in order to ensure that the laws were effectively implemented.

26. He welcomed the parenté à plaisanteries practice as a basis for friendly dialogue but invited the delegation to draw a distinction between pleasantries and discrimination and ethnic intolerance.

27. He looked forward to the next report which he hoped would be comprehensive and submitted on time.

28. The CHAIRMAN reiterated the satisfaction expressed by other members of the Committee concerning the resumption of dialogue with the State party and the Committee's pleasure in receiving encouraging news of the State's activities in implementing its human rights obligations.

29. The delegation of Burkina Faso withdrew.

Review of the implementation of the Convention in States parties whose reports are excessively overdue

Suriname

30. Mr. de GOUTTES (Country Rapporteur) reminded the Committee that Suriname was one of the States parties that had never submitted a report since its ratification of the Convention. Its initial report had been due in 1985; the second to eighth periodic reports had been expected in 1997. Given the situation, which was probably due to internal difficulties and political crises, he suggested that the Committee should simply take note of the situation, recall the obligations of the State party under article 9 of the Convention and invite it to submit a complete report as soon as possible. The Committee could also invite the Government to request the assistance of the advisory services of the Centre for Human Rights in preparing its report.

31. He gave a brief overview of developments in Suriname, which had had difficult beginnings since independence in 1975, including military coups d'état and civil war. The present process of democratization dated to 1991. Colonel Bouterse, former Commander-in-Chief of the armed forces, who had been a symbol of the difficult relations between civilians and the military, had been designated "First Member of the State Council"; however, an international arrest warrant had recently been issued against him in the Netherlands for drug trafficking.

32. The national economy was dominated by bauxite mining and production, which for several years had meant dependence and vulnerability, due to the decline in worldwide demand.

33. Suriname had 455,000 inhabitants, in addition to 300,000 nationals exiled in the Netherlands. Of the 455,000, 37 per cent were of Indian origin; 35 per cent Creoles (Blacks living in the cities); 15 per cent Javanese; and 10 per cent Amerindians and Bushnegroes (Blacks living in the forests). Of particular note was the existence of ethnic parties, which constituted the

country's traditional political class: there were one Indonesian party, one Creole party, one Indian party and one party composed largely of Javanese. Also noteworthy was the presence of a sizeable Indonesian community, which ranked third in number after the black and Indian communities, compelling the Government to develop its relations with Indonesia. Finally, it should be noted that the population was 20 per cent Muslim, which had led Suriname to be admitted as the fifty-fourth member of the Organization of the Islamic Conference (OIC) and to be eligible for loans from the Islamic Development Bank.

34. According to the 1997 report of Amnesty International, in December 1995 the National Assembly had adopted a resolution calling on the Government to open an investigation into extrajudicial executions carried out in December 1982 and other human rights violations committed by Bouterse's army. However, that resolution did not seem to have been followed up.

35. The principal subjects of concern for the Committee were set forth in the 1995 report of the Committee on Economic, Social and Cultural Rights (E/1996/22/EC/1995/18) as well as in the reports of the United States Department of State. The Committee on Economic, Social and Cultural Rights report cited certain encouraging aspects of developments in Suriname, including the creation of a National Institution for Human Rights, constitutional recognition of the principle of equality for all, the prohibition of all racial, ethnic and religious discrimination, accession to the various international human rights instruments and the establishment in 1995 of an Advisory Council for the Development of the Interior. Both that Committee's report and the 1996 report of the United States Department of State, however, referred to the persistence of various forms of discrimination against indigenous populations, especially the Maroons and Amerindians, who lived in remote regions of the interior, whereas the nation's political, cultural and work life was concentrated in the capital and its environs. Discrimination was manifested in political representation: only three seats in the National Assembly were held by the Maroon political party, which was part of the opposition, and there had been only one Amerindian delegate to the Assembly since 1996; neither group was represented in the Cabinet.

36. Both groups also had a low rate of participation in decision-making concerning their lands and natural resources. In May 1996, the World Council of Churches had condemned the mining activities of two Canadian companies, accusing them of violating the human rights of indigenous persons living in the mining zones. Maroon and Amerindian organizations had complained of being chased off their traditional farmlands by mining companies. Initiatives had been taken by the Minister of Natural Resources, the Organization of American States (OAS) and Maroon and Amerindian cooperation groups to strengthen indigenous rights, but they did not yet seem to have been fully implemented by the Government.

37. The Committee on Economic, Social and Cultural Rights had deplored the persistence of discrimination in education, culture and language. Education was provided only in Dutch, the official language of Suriname. That Committee had regretted that the Government had not made sufficient efforts to promote Sranan Tongo, the language spoken by most Surinamese, or to preserve indigenous languages. In view of the prolonged economic crisis and

unemployment, the Committee on Economic, Social and Cultural Rights had called on the authorities to increase social aid, without discrimination, for the poorest segments of the population, indigenous populations in the interior, and persons displaced by the recent internal armed conflict. The Committee might wish to endorse those concerns and recommendations and invite the Government to submit its report without delay.

38. Mr. van BOVEN said the situation of the Suriname report was particularly disturbing, as the Committee had not commenced a dialogue with the State party or even received an initial report. The principles and provisions of the Convention were of special relevance to the situation in Suriname. Its very mixed ethnic composition led to an unequal distribution of resources, depending on who was in power, and to unequal access to public office.

39. The Committee should make an urgent appeal, relying on information received from other United Nations bodies, where relevant. It was an instance in which the Committee must point out clearly that the United Nations should offer advisory services and technical assistance. The Committee should also set a time limit, stating that it would review the situation in 1998 or 1999.

40. Mr. ABOUL-NASR asked whether the Committee would examine the situation of every State party that had not submitted a report in the same manner as it was considering Suriname. The United States, for example, had submitted a report on Suriname through its Department of State, and yet it had never provided the Committee with its own report. That was a double standard. Would the Committee state in its report to the General Assembly that it had examined the situation in a State party without a report?

41. The CHAIRMAN said he understood the Committee's position to be that any State party that had not submitted its initial report within five years would come within the scope of the present procedure, which had been commended by the General Assembly in its resolution 51/80 of 1996. The Committee would indeed be reporting on the present discussion in its report to the Assembly. If it were to be said that the State party had been unable to report hitherto because of internal difficulties, it could equally be said in reverse that those difficulties had arisen in part because the State had not been attending sufficiently to the principles expressed in the Convention.

42. Mr. SHERIFIS said that if the Committee met at Headquarters once in a while, concentrating on the reports of small countries represented in New York but not in Geneva, the situation would be helped considerably. Suriname had a very active mission in New York, where its Permanent Representative was the Chairman of the Latin American Group and would undoubtedly be willing to appear before the Committee and to establish some dialogue. Guyana was another small country with an extremely active delegation in New York. The Committee could ask Mr. Valencia Rodriguez to talk to the Permanent Representative of Suriname in New York during the meetings of the Third Committee of the General Assembly and at the January 1998 meeting of States parties to the Convention.

43. Mr. VALENCIA RODRIGUEZ said that when the Committee had last considered Suriname, its decision to consider the situation on the basis of United Nations documents had been communicated to the General Assembly in its

report, and the Assembly had accepted the procedure. Both Suriname and Guyana had many internal problems and economic, social and cultural difficulties. If the Committee met at least once in New York, its presence would be more visible and effective vis-à-vis those countries without representation in Geneva.

44. The CHAIRMAN suggested that the Committee should request Suriname to submit its report within the next 12 months, so that it could be considered at the Committee's session in March 1999.

45. Mr. ABOUL-NASR suggested that Mr. Valencia Rodriguez should be requested to raise the question of a session in New York at the next meeting of States parties, as he had done in the past before the Third Committee of the General Assembly. Furthermore, the Chairman could include in the letter transmitting the Committee's report to the General Assembly a reference to article 10 of the Convention, which stated that meetings of the Committee should normally be held at United Nations Headquarters, and to the problems which the Committee had in maintaining contacts with States parties which had no representatives in Geneva. The letter should also state that Mr. Valencia Rodriguez would represent the Committee at the meeting, should he confirm his willingness to do so.

46. The CHAIRMAN said that those concerns would be taken into account in the letter of transmittal. Furthermore, the Committee's schedule included time for discussion of a message to the forthcoming seventeenth meeting of States parties, a preliminary draft of which was contained in document CERD/C/51/Misc.2. Should the Committee decide to send such a message, the content of the message might also reflect those considerations.

47. Mr. VALENCIA RODRIGUEZ said that he would be honoured to put forward the Committee's views, both at the meeting of States parties and at the meetings of the Third Committee of the General Assembly.

48. Mr. van BOVEN suggested that the letter to the Government of Suriname and the Committee's report should invite the Government to make use of the advisory services and technical assistance available from the Centre for Human Rights.

49. Mr. GARVALOV said that the Committee should make a fresh appeal to those States parties which had not yet submitted their initial reports, either in the letter transmitting the Committee's report, or in separate letters to the Secretary-General and the new High Commissioner for Human Rights. States parties' non-compliance with their reporting obligations was a major problem for the Committee. After all, States had acceded to the Convention of their own free will, without any pressure being exerted on them.

50. Mr. de GOUTTES supported the proposal to ask Mr. Valencia Rodriguez to represent the Committee and thanked him for accepting. He agreed that the letter of transmittal should include a more general recommendation concerning States parties which had not yet submitted their initial reports.

51. Mr. AHMADU suggested that a copy of the letter should also be sent to Mr. Ferrero Costa, so that he could use his influence with his fellow foreign ministers.

52. Mr. de GOUTTES (Country Rapporteur) suggested that the Committee's letter to the Government of Suriname should make the following points. The Committee regretted the absence of Suriname's initial report, but conceded that the country's internal problems and political crises were a valid explanation. Nevertheless, the multi-ethnic nature of the Suriname population and the presence of indigenous groups made it very important for Suriname to implement the Convention fully. The Committee should call for Suriname's report, consisting of the initial report and the eight periodic reports due since Suriname's accession to the Convention, to be submitted as soon as possible, preferably in time for the Committee to consider it at its session in March 1999. The advisory services and technical assistance of the Centre for Human Rights were at Suriname's disposal.

The public part of the meeting rose at 11.45 a.m.

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Fifty-first session

SUMMARY RECORD OF THE 1238th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 19 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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GE.97-18030 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Seventh to tenth periodic reports of Burundi (CERD/C/295/Add.1; HRI/CORE/1/Add.16)

1. At the invitation of the Chairman, Mr. Nsanze, Mr. Barahiraje, Mr. Makenga and Mr. Karonkano (Burundi) took places at the Committee table.

2. Mr. NSANZE (Burundi) said that the high rank of the persons making up the delegation showed how much importance the Burundian Government attached to the implementation of the Convention.

3. Mr. BARAHIRAJE (Burundi) thanked the Committee for having postponed consideration of the report, which had initially been scheduled for 13 August, adding that the delegation had not been able to travel to Geneva on that date owing to the blockade currently imposed on Burundi by neighbouring countries. He said that Burundi had been plunged into a bloody crisis by the assassination, on 21 October 1993, of its first democratically elected president. A social and political upheaval had ensued, to which no solution could be found. Massacres, crime and genocide had been rampant in the country until the change which had occurred on 25 July 1996. Peace was gradually returning, although insecure areas still remained.

4. The authorities were resolutely engaged in defending the principles of law, as well as human rights. Thus under the terms of Decree-Law No. 01/001/96 of 13 September 1996, the transitional institutions had to ensure respect for human rights. Several instruments, including the Civil Code, the Penal Code, the Personal and Family Code and the Labour Code, enshrined the principle that all citizens were equal before the law. The Government of national unity which had been set up and which incorporated all shades of political opinion had established a Ministry responsible for human rights. A National Centre for Human Rights had also been set up. A decree-law relating to the establishment, organization and running of the Council of Notables (Abashingantahe) for National Unity and Reconciliation had been signed in order to provide the Government with guidance on all issues relating to national unity. Acknowledgement of political pluralism and the ratification of numerous international human rights instruments were clear indicators of the Government's determination to promote and protect human rights. The Government's efforts in that respect had been almost totally frustrated, however, by the blockade, with the result that the people's right to health care, education, instruction, paid employment and housing could no longer be guaranteed.

5. With regard to the implementation of articles 2 to 7 of the Convention, article 180 of the Penal Code penalized racial or ethnic discrimination and hatred. Article 5 of the Political Parties Act prohibited discrimination on ethnic grounds. The above-mentioned Decree-Law No. 01/001/96, governing the organization of the transitional institutional system, which incorporated virtually all the principles set forth in the suspended 1992 Constitution,

provided that all people had equal dignity, rights and duties, without distinction on grounds of sex, origin, ethnic status, religion or opinion, and that all Burundian citizens had the right to participate, directly or indirectly, in the running and management of the affairs of the State and were entitled to hold public office. The decree-law also guaranteed the right to property, to freedom of thought, conscience, religion and worship, freedom of peaceful assembly and association, the right to work and to just conditions of employment, the right to form and join trade unions, as well as the right to equal access to training, education and culture. In addition, Decree-Law No. 1/39 of 28 November 1992 regulating the press in Burundi recognized the right to freedom of opinion and expression.

6. The social and political upheavals of the last few years had caused the large-scale destruction of housing, entailing a considerable population displacement. Specialized institutions had therefore been set up in urban and rural areas to finance and organize the construction of housing. Hospitals, health centres and dispensaries had been partially or totally destroyed by armed gangs since the beginning of the civil war. As a result, a significant proportion of the population had been left without access to health care. The Government had recently redeployed doctors throughout Burundi in an attempt to provide treatment for as many persons as possible. Vaccination coverage, which had extended to 80 per cent of the country prior to the onset of the crisis, had fallen to no more than 40 per cent. The mortality rate had increased in Burundi as a result of malnutrition and the shortage of medicines. Infant mortality had risen to 132 per 1,000 by the beginning of 1994. Consequently, the right to health was no longer assured in Burundi.

7. The transitional Government planned to strengthen activities to educate people for peace, tolerance and respect for human rights, in the educational system as well as through awareness and training campaigns, conducted in particular by the Ministry of Youth, Sport and Culture. At the same time, a nationwide dialogue had been initiated at all levels with a view to gathering proposals for solutions to the country's basic problems. The Government also encouraged the establishment of independent leagues and associations for the protection of human rights.

8. The Government of Burundi reiterated its attachment to human rights, justice, peace and development. It was committed to taking further legislative, judicial and administrative measures to combat all forms of discrimination so as to ensure dignity and equality among its citizens.

9. Mr. WOLFRUM said that he was acting as rapporteur for Burundi in the absence of Mr. Chigovera, who had left on mission to the Democratic Republic of Congo, and that his own comments were essentially based on the notes concerning Burundi's report which Mr. Chigovera had prepared prior to his departure. According to the Committee's guidelines, the States parties were expected to give account in their reports not only of legislative and other measures which they had decided and which gave effect to the provisions of the Convention, but also of the impact of those measures. That second aspect, however, appeared to have been omitted in the report under consideration.

10. Burundi had been going through a period of transition when the Committee had considered the country's sixth periodic report in March 1991. The

Committee had then observed positive signs of the gradual elimination of discrimination, particularly in education. Since then, Burundi had been affected by dramatic events, including mass killings which had been primarily ethnically motivated, the massive exodus of refugees into neighbouring countries, an increase in the number of internally displaced persons and political instability. The gains of the early 1990s had been reversed and Burundi was very slowly recovering. Under its early warning and urgent procedures, the Committee had been closely following events in Burundi since the assassination of President Ndadaye in 1993. Numerous decisions had been made by the Committee on the situation. For instance, in its decision 1 (47) of 1995, the Committee had called for the creation of a new police force staffed by persons drawn proportionally from all ethnic groups, the creation of an army also composed of persons drawn proportionally from all ethnic groups, and the reorganization and retraining of the judiciary. Those recommendations still remained valid.

11. The report under consideration appeared to suggest that because the Constitution and other laws prohibited racial discrimination, the Government felt there was no need to take any further steps. He disagreed that the obligations under the Convention were met by simply adopting legislative measures. He was even more concerned, however, by the statement in paragraph 5 of the report, according to which Burundi had no races or ethnic groups in the strict sense of the word, as the Hutus, Tutsis and Twas did not possess distinctive territories, cultures, languages or religions. He considered on the contrary that the Twas had a culture and a way of life which was different from those of the other groups. Apart from that, in the definition of discrimination given in article 1, paragraph 1 of the Convention, no link was established between ethnicity and territory. It was true that the violence between the Hutus and the Tutsis had been exploited by politicians, but nevertheless ethnicity was a significant factor of conflict which had to be taken into account if Burundi's current crisis was to be overcome. It was important that a political system should be instituted providing for Hutus and Tutsis to cooperate and govern the country on an equal footing. While the objectives set out by the Government in paragraph 8 of its report were highly commendable, they could not be achieved unless the causes of the current predicament were recognized. Yet the Government's report provided no indication of the cause or the solution of current problems and even denied their existence.

12. If Decree Law No. 1/001/96 of 13 September 1996 was in conformity with the 1992 Constitution, as implied by the incorporation of virtually all the principles set forth in that Constitution (paragraph 14), why then had the latter been suspended and provisionally replaced by an instrument of dubious legitimacy? What was the composition of the Abashingantahe Council for national unity and reconciliation (paragraph 17) in relation to the various interest groups in Burundi, and what were its functions?

13. The assertion that there were no racial groups in Burundi (paragraphs 5 and 23) was inconsistent with the realities of violence committed by one ethnic group against another (reference should be made to the recommendation issued by the Human Rights Committee in 1994, contained in A/48/40, para. 80), or with the statement of the State party in its sixth periodic report, acknowledging that the events which had occurred previously had been the

result of incitement of peasants of one ethnic group to systematically kill peasants of another ethnic group (CERD/C/168/Add.1, paragraph 31). After considering that report at its fortieth session, the Committee had requested Burundi to report on the representation of the Hutus in the army and public service. That request had remained unanswered and should be reiterated, considering that there appeared to be no Hutu officers, that 90 per cent of the judiciary was of Tutsi origin (out of 228 judges only 13 were Hutus) and that 90 per cent of prisoners were Hutu. The Committee's recommendation concerning the repatriation of refugees and the gradual elimination of institutionalized discrimination, particularly in education, also remained valid.

14. He would like information concerning the steps taken or being taken by the State party to bring about proportional representation of the ethnic groups in the judiciary and to improve the living conditions of the Twa, who, according to reports, remained marginalized economically, socially and politically, without access either to education or to government services. The Committee might wonder why so little information was given in that respect in the report and why no special measures had been taken in favour of that ethnic group in accordance with article 2, paragraph 2, of the Convention.

15. It could not be said to be adequate compliance with article 3, under which States parties undertook to prevent and eradicate racial segregation and apartheid, to simply ratify the International Convention on the Elimination of All Forms of Racial Discrimination or other instruments, such as the International Convention against Apartheid in Sports (paragraph 24). It was wrong to assume that the death of apartheid in South Africa implied the disappearance of racial segregation in the world and that article 3 no longer had any purpose. The Government of Burundi should in that respect refer to general recommendation XIX (47), which gave an interpretation of article 3, and should include information in its next report on steps taken to eliminate and prevent racial segregation.

16. The Convention prohibited discrimination based on race, colour, ethnic or national origin. The provisions of the Political Parties Act prohibiting all forms of discrimination based on ethnic status (paragraph 26) were therefore too narrow to satisfy the requirements of the Convention, in particular article 4 (a). Paragraph 28, according to which the "Government believes that there are no deficiencies that need to be made good" with regard to the information previously supplied concerning the implementation of the provisions of article 4 (b), was therefore an inaccurate statement of the level of implementation of the Convention in Burundi. The report provided no information on prosecutions for violations of article 4, despite numerous reported acts of violence, killings and ethnic persecution following the 1993 coup d'état and the attempted coup of July 1995.

17. With regard to the implementation of article 5 of the Convention, the Government of Burundi referred to article 113 of a new decree-law regulating the transitional institutional system, which stipulated that "justice shall be handed down by the courts and tribunals throughout the territory of the Republic in the name of the people of Burundi" (paragraph 31). No indication was given, however, of the investigation and prosecution under that decree-law of the killings and disappearances reported by the United Nations Commission

of Inquiry in 1996. Statistics would be necessary in that respect. He would also invite comments on reports to the effect that the main impediment to investigations and prosecution was the involvement of the police and military authorities.

18. What steps was the Government taking to stem the tide of reported forced evictions or replacement of people, problems which were not even mentioned in the report? The creation of regroupment camps administered by the police, supposedly with the aim of guaranteeing the safety of inhabitants, raised a number of questions. Between 350,000 and 500,000 persons were affected and the camps should not be made permanent or target one specific ethnic group.

19. Why had no cases of racial discrimination ever been brought before the Burundian courts (paragraph 57), when numerous incidents of violence were alleged to have been committed on ethnic lines? Why had the Government not been willing to recognize the role played by ethnic differences, more particularly when the victims or offenders were said to belong to one or other ethnic group?

20. With regard to article 7, while it was appreciated that the political situation in Burundi remained volatile, particularly on account of the economic blockade, the Government should not be content with declarations of intent in the field of education and should demonstrate the efforts it was making in that respect.

21. The conclusion of the report was not consistent with assertions made earlier. What precisely was the Government's attitude towards its obligations under the Convention? Did it really believe that no further action was needed for ethnic groups and that the information supplied was complete (paragraphs 23 and 28)?

22. Lastly, he wanted to know what measures the Government had taken to ensure the safety of the 1,500 Zairians, 6 Somali and 1 Ethiopian identified in Burundi as refugees or displaced persons? Also, in November 1996, approximately 100,000 displaced persons had been reported living in the province of Cebitoke in poor circumstances worsened by the lack of security. What steps had been taken to help that vulnerable group?

23. Mr. VALENCIA RODRIGUEZ, noting the serious accusation in paragraph 7 of Burundi's report, according to which "the whole world has helplessly witnessed the gradual disintegration of the State and the entire social fabric", said that the Government's first priority should be to restore peace and security and to end impunity by opening inquiries and initiating legal proceedings against those suspected of crimes of all kinds.

24. The Government stated in its report that Burundi had no races or ethnic groups in the strict sense of the word. Ethnic groups undoubtedly existed, however, and were precisely the cause of armed conflicts. For a country as populated as Burundi, which had 8.6 million inhabitants, it would be useful to know the proportions of the different ethnic groups in the population.

25. Decree-Law No. 1/001/96 of 13 September 1996 appeared to provide an appropriate legal framework for implementing the provisions of the

International Convention on the Elimination of All Forms of Racial Discrimination. The information provided concerning articles 2 to 7 of the Convention, however, was very succinct and further details were required on the economic and social situation in the country, together with concrete examples of coexistence between the three major ethnic groups, namely the Hutu, Tutsi and Twa. Paragraph 34 mentioned "councils of distinguished persons". What were their functions, how were the members appointed and on whom did they depend? The Government of Burundi appeared to have ambitious plans for promoting respect for human rights and tolerance among all the components of the population. Those plans could not be implemented, however, without international cooperation.

26. Mr. DIACONU endorsed the queries raised by Mr. Wolfrum and Mr. Valencia Rodriguez. In his view, the Committee's basic difficulty was understanding the causes of violence and civil war among Burundi's different ethnic groups. The Government of Burundi should also try to tackle that difficulty before trying to resolve it by laying the basis for harmonious coexistence among all groups of the population.

27. The Government of Burundi denied the existence of different ethnic groups. Were the conflicts then to be interpreted as a power struggle between a majority group and a minority group? If it was to understand the situation, the Committee needed to know the demographic distribution of the three major ethnic groups in the country. The information supplied by Burundi in the report under consideration, however, was altogether inadequate (especially paragraphs 26, 28 and 29). The Government appeared to acknowledge political pluralism (paragraph 18), but it would be interesting to know the ethnic composition of the political parties, as well as the numbers of Tutsis and Hutus in the Government. The Committee also needed statistics concerning access to health, education and housing for each ethnic group and geographic region.

28. Mr. van BOVEN said it was worth recalling that as a treaty body, the Committee supervised the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and advised States parties on ways of fulfilling their obligations. It had two methods at its disposal: the consideration of periodic reports and the urgent procedure. Under the latter procedure, the Committee had adopted several resolutions in 1994, 1995 and 1996 to try to prevent further acts of violence in Burundi.

29. With regard to the report before the Committee, the main points had been covered by previous speakers. He would urge the delegation of Burundi, however, to provide precise details as well regarding the Government's "resolute efforts to put an end to impunity" (paragraph 9).

30. In several earlier decisions concerning Burundi, the Committee had called for security forces and public services to be placed under civilian control and to be representative of all ethnic groups, for measures to be taken to halt incitement to racial hatred by the radio and other mass media, for a national institution for the promotion of human rights to be established in order to promote peaceful relations between ethnic groups and for close cooperation to be initiated with the United Nations High Commissioner for Refugees and the United Nations High Commissioner for Human Rights, as well as

with the neighbouring countries, in order to provide refugees and displaced persons with the possibility of returning to their homes. Those were obviously long-term recommendations, but the Government of Burundi had apparently failed to take them into account. The Committee would like to know the views of the delegation on those different issues.

31. Mr. de GOUTTES was prepared to admit that the report under consideration might have been drafted in very difficult circumstances. In that regard, he could only urge the Government of Burundi to restore social and inter-ethnic cohesion, by referring in particular to the Committee's resolution 1 (49) and its 1994 conclusions. That having been said, the situation did not justify the fact that the report was couched in such general and theoretical terms and that it did not give any precise idea of the gravity of events.

32. While recognizing that the situation had somewhat improved and stabilized, he said that, according to reports of the United Nations and some non-governmental organizations, displacements and the forced regroupment of people in overcrowded camps afflicted by typhus, cholera and malnutrition were continuing, as well as disappearances and summary executions of refugees, destructions perpetrated as part of the anti-guerrilla campaign and the detention without charge or trial of a considerable number of Hutus, over 6,500 according to Amnesty International's 1997 report. Also according to the same sources, the Hutu were still little represented in the administration, the army, the police and the judiciary. It was regrettable that the United Nations was being prevented from inquiring into human rights since the Government of Burundi had requested the replacement of Mr. Pinheiro, Special Rapporteur on the human rights situation in Burundi, who had denounced the killing of civilians and the Government's "military logic". There were still 12 United Nations experts in Burundi, who were all too willing to help the country reform its judicial system.

33. Referring to the content of the report under consideration, it was hard to accept the assertion in paragraphs 5, 6, 21 and 23 that there were neither races nor ethnic groups in Burundi, whereas precisely the country was in the throes of conflicts between Tutsis and Hutus, which undoubtedly had political overtones but were also ethnically motivated. He welcomed the statement in paragraph 9 that the Government was making resolute efforts to put an end to impunity by mounting investigations and instituting the necessary legal proceedings, but he would have liked the Government to give some concrete examples of cases, and the ensuing outcome.

34. The Government should indicate what steps were being taken to improve the deplorable situation of refugees, as described in paragraph 51. The Government should also ask itself why, according to paragraph 57, no cases of racial discrimination had been brought before the Burundian courts. That could be due to the fact that the victims of discrimination mistrusted the police and judicial authorities, or to a certain inertia on the part of those authorities. Lastly, paragraph 62 mentioned a national centre for the promotion of human rights. He would like to have more details concerning the centre and the "independent leagues and associations" for the protection of

35. Mr. SHAHI, referring to some points already raised by other Committee members, also wanted to know what the Government intended to do to put an end to impunity for perpetrators of massive human rights violations, since the confidence without which there could be no lasting peace could not be restored unless they were punished. He also regretted that the recommendations made by the Committee at its August 1995 and August 1996 sessions, calling for proportional representation of all ethnic groups in the army, the judiciary and government bodies, had not been implemented. In its resolution 1 (49) on Burundi, the Committee had endorsed the proposal to dispatch a multinational peace force to the country in order to prevent a blood bath. That very sensible proposal, which had initially been supported by Mr. Boutros Boutros-Ghali, had unfortunately not been approved by the Security Council.

36. He also thought that it was worth identifying the exact nature of the current conflict, which was not properly speaking ethnic, but rather related to a political power struggle. At their meeting in Arusha, the heads of African States had advocated political reconciliation and dialogue between the heads of Tutsi and Hutu factions. President Buyoya was said to have begun peace talks with the rebel chiefs and to appear convinced that negotiations would lead to a satisfactory solution for both the Hutu and the Tutsi and that the country was once again embracing a style of democracy which took account of Burundi's cultural and political realities. However difficult it would be to implement, a political settlement was the only solution to be considered, since it seemed clear that the international community was not prepared to intervene if the situation worsened.

37. Every effort should be made, therefore, to help the parties involved. The leaders of States of the Great Lakes region had shown that they could take initiatives, even though tensions had arisen with President Buyoya when the Burundian Constitution had been suspended, and it was to be hoped that together with the other members of the international community they would help Mr. Buyoya conclude a power-sharing agreement between all the parties, including the armed and security forces.

38. Ms. SADIQ ALI said that there were only a few points she wished to raise at that stage. She wanted to know whether there was any chance of the blockade being lifted, considering President Buyoya's efforts to bring the situation back to normal. Which provisions of the decree-law mentioned in paragraph 39 determined how Burundian nationality was acquired and lost? How many refugees were still in Tanzania? How many had returned and how were they being resettled, rehoused, educated and fed? Could the Burundian delegation say how many legal proceedings had effectively been undertaken in order to put an end to impunity, indicating the outcome of the proceedings and the sentences passed? Lastly, she would like details concerning the role of the National Centre for the Promotion of Human Rights mentioned in paragraph 62 of the report.

39. Mr. ABOUL-NASR did not think that the Government of Burundi could be accused of having ignored the Committee's comments and queries, since it was not in fact known whether or how it had received them. The Burundian

40. Unlike other members of the Committee, he took the view that the problem underlying the conflict between the Tutsi and the Hutu was not restricted to Burundi, but arose throughout the Great Lakes region. It was therefore unfair to expect Burundi to settle the problem on its own. Any solution which was not regional in scope was bound to be partial and temporary. Imposing sanctions on Burundi, which mainly affected children and innocent people, did not appear to be a satisfactory solution. He wondered whether the problem would not be better tackled through regional cooperation and asked what help Burundi intended to request from the Organization of African Unity and the United Nations.

41. He also thought that the United Nations should approach the protection of human rights differently. Rather than sending out special rapporteurs, who were rejected and created more problems than they solved, the Organization would be better advised to send mediators who were well acquainted with the countries and the region they were visiting. That was not the case with the United Nations envoy to Burundi, who had merely drawn up a critical report of the situation, without making any effort to understand the dimensions of the problem in neighbouring countries and without seeing that a solution which might be valid in Europe could not be applied in Africa.

42. With regard to Burundi in particular, it was worth looking into the reasons why it was so difficult to put an end to the killings. Was the Government considering cooperating with its neighbours, some of which supported the Tutsi and others the Hutu, which clearly showed the regional dimension of the problem, and had it effectively prosecuted those responsible?

43. With regard to the return to democracy announced by Mr. Buyoya, he was of the opinion that, while democracy entailed certain minimum standards, such as constitutional equality between groups, it could not appear in the same light everywhere and had to be adapted to the culture of individual countries.

44. Mr. AHMADU said that the situation in Burundi, afflicted as it was by killings and innumerable atrocities, gave Africans and the international community as a whole a feeling of complete helplessness. Everyone hoped that the Buyoya Government would succeed at least in restoring peace and security. How far had it succeeded?

45. Since Rwanda's and Burundi's accession to independence, the tensions and conflicts between those two countries of East Africa had ended up creating problems for the whole region. The blockade imposed on Burundi by the neighbouring States, who were alarmed at the situation, did not appear to have worked.

46. The difficulties regarding human rights in Burundi were due not so much to legislative shortcomings or loopholes as to the failure to implement domestic law and the rules of the Convention, although the Government in that respect could claim attenuating circumstances. He had the impression that the leaders and military chiefs who had either committed or allowed atrocities continued to enjoy impunity. What steps did the Government of Burundi intend to take to force them to answer for their acts before the law? From a

legislative point of view, it would be interesting to know whether the President was governing by decree or whether legislation was actually being passed by the National Assembly.

47. He thought that the action taken by the international community and the Organization of African Unity on behalf of Burundi and the region as a whole was most inadequate. Perhaps an international conference should be convened to discuss the situation in Africa. A further move might be for the United Nations system to increase the funds it allocated to humanitarian assistance, for instance by combining the resources of several specialized agencies.

48. Mr. GARVALOV said that Burundi should be given credit for having succeeded in preparing its periodic report and submitting it to the Committee, despite the extremely serious situation prevailing in the country. The fact that the report contained contradictions or inaccuracies was not so important if one considered that Burundi's problems were essentially political and should therefore be met with a political solution. Nevertheless, only education, in the broader sense of the term, by tackling the problem at its roots, could provide a way out. A very broad-ranging educational programme should be launched with a view to eradicating racial hatred and racial prejudice, failing which no measure or no political arrangement would be viable in the longer term. If the circle of violence was to be broken, mentalities would have to be changed, and that would necessarily take a long time.

49. He had read in paragraph 15 of the report that all shades of political opinion were represented in the Government of Burundi. He failed to see how that statement was compatible with the claim that Burundi had no ethnic political groups, considering that article 5 of the Political Parties Act prohibited all forms of discrimination based on ethnic status.

50. He noted that two of the guiding principles for the administration of justice in Burundi, namely strict enforcement of the principle of equality before the law regardless of the social rank of the litigant and respect for the rights of the defence (paragraph 33), appeared to be a matter of particular concern for the Burundians, whereas they might be expected to be taken for granted.

51. The CHAIRMAN invited the delegation of Burundi to provide replies at the following meeting to the many questions raised by members of the Committee.

The meeting rose at 5.55 p.m.